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N.J.A.C. 7:15

## WATER QUALITY MANAGEMENT PLANNING

Statutory authority: N.J.S.A. 13:1D-1 et seq., 13:19-1 et seq., 13:20-1 et seq., 23:2A-1 et seq., 40:55D-93 through 99, 58:1A-1 et seq., 58:10A-1 et seq., 58:11A-1 et seq., 58:11-23 et seq., 58:16A-50 et seq., and 58:29-1 et seq.

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## SUBCHAPTER 1. GENERAL PROVISIONS

### **7:15-1.1 Scope**

(a) This chapter establishes water quality management policies and procedures pursuant to the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Department's enabling legislation, N.J.S.A. 13:1D-1 et seq., the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq., the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq., the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Stormwater Management Act, N.J.S.A. 40:55D-93 through 99, the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq. Specifically, this chapter establishes policies and procedures concerning the following subjects:

1. The content of the continuing planning process ("CPP") and its relationship to this chapter and the Statewide Water Quality Management ("WQM") Plan;

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2. The relationship between the Statewide, areawide, and county water quality management (WQM) plans and this chapter;
3. The role of the Department and designated planning agencies in WQM planning activities;
4. The review of projects and activities for consistency with WQM plans and this chapter, including the issuing of consistency determinations for specified kinds of projects;
5. The preparation, adoption, amendment, revision, and certification of WQM plans;
6. The adoption of other Department rules, priority systems and project priority lists, sludge management plans, regional stormwater management plans, effluent limitations, wastewater management plans, 201 Facilities Plans, and other documents in WQM Plans;
7. Coordination of WQM planning with Coastal Zone, Hackensack Meadowlands, Highlands and Pinelands programs and municipal zoning;
8. Mechanisms to resolve conflicts among State agencies, designated planning agencies, applicants, and other parties affected by this chapter;
9. Selected aspects of wastewater management, including treatment works deemed to be consistent with WQM plans and this chapter; WQM Plan amendment requirements for treatment works not identified in WQM plans; construction of individual subsurface sewage disposal systems and other small domestic treatment works in future sewer service areas; and eligibility for financial assistance.
10. The procedures for WQM plan amendments and revisions, and the withdrawal of wastewater service areas where wastewater management plans are not current in accordance with this chapter;
11. The assignment of the duty to prepare and update wastewater management plans to county boards of chosen freeholders and the establishment of alternative assignments of such wastewater management plan responsibility to municipalities;
12. The required contents of wastewater management plans, and schedules and procedures for their submission, adoption, and updating;
13. The process for identifying water bodies on the List of Water Quality Limited Segments and establishing total maximum daily loads;
14. Designation of appropriate wastewater service areas in consideration of environmentally sensitive areas; and

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15. The application and approval process for grants as authorized by the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq.

### **7:15-1.2 Construction**

This chapter shall be liberally construed to permit the Department to discharge its statutory functions, and to effectuate the provisions of the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Department's enabling legislation, N.J.S.A. 13:1D-9, the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq., the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq., the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Stormwater Management Act, N.J.S.A. 40:55D-93 through 99, the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., the Statewide WQM Plan, and the areawide WQM plans.

### **7:15-1.3 Purpose**

(a) The purpose of this chapter is to:

1. Implement the Water Quality Planning Act, N.J.S.A. 58:11A-1 et seq., the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Department's enabling legislation, N.J.S.A. 13:1D-9, the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq., the Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., the Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq., the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., the Stormwater Management Act, N.J.S.A. 40:55D-93 through 99, the Water Supply Management Act, N.J.S.A. 58:1A-1 et seq., the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq., and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq.;

2. Establish policies, procedures and standards which, wherever attainable, help to restore, enhance and maintain the chemical, physical and biological integrity of the waters of the State, including ground waters, and the public trust therein, to protect public health, to safeguard fish and aquatic life and scenic and ecological values, and to enhance the domestic, municipal, recreational, industrial and other uses of water;

3. Prevent, control, and abate water pollution;

4. Conserve the natural resources of the State, promote environmental protection, and prevent the pollution of the environment of the State;

5. Encourage, direct, supervise and aid areawide WQM planning;

6. Integrate and unify the Statewide and areawide WQM planning processes, and provide for continuing WQM planning;

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7. Ensure that projects and activities affecting water quality are developed and conducted in a manner consistent with this chapter and adopted WQM Plans;

8. Coordinate and integrate WQM plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities, programs and policies;

9. Develop and implement water quality programs in concert with other social and economic objectives;

10. Provide opportunities for public participation in the WQM planning process;

11. Prepare, administer, and supervise Statewide, regional and local plans and programs concerning conservation and environmental protection, including plans and programs concerning sewerage facilities;

12. Encourage, direct and aid in coordinating State, regional and local plans and programs concerning conservation and environmental protection, including plans and programs concerning sewerage facilities, in accordance with a unified Statewide plan formulated, approved and supervised by the Department;

13. Supervise sanitary engineering facilities within the State; and

14. Encourage the development of comprehensive regional wastewater management planning that serves the needs of the regional community and that conforms to the adopted areawide WQM plan applicable to that region.

#### **7:15-1.4 Severability**

If any section, subsection, provision, clause, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect.

#### **7:15-1.5 Definitions**

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Acid producing soils” means soils that contain geologic deposits of iron sulfide minerals (pyrite and marcasite) which, when exposed to oxygen from the air or from surface waters, oxidize to produce sulfuric acid. Acid producing soils, upon excavation, generally have a pH of 4.0 or lower. After exposure to oxygen, these soils generally have a pH of 3.0 or lower. Information regarding the location of acid producing soils in New Jersey can be obtained from local Soil Conservation District offices.

“Actual flow” means the volume of sewage and other wastes which a DTW or industrial

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treatment works receives. Actual flow shall be determined by the arithmetic average of the metered daily volumes of waste received at a DTW or industrial treatment works for the preceding period of three consecutive calendar months. Where peak flows have been determined by the Department to be seasonal in nature, the seasonal peak flow period shall be used in determining actual flow.

“Adoption” means the adoption by the Department of Statewide WQM Plans or amendments or revisions thereof and the adoption by the Governor or his or her designee of areawide plans or amendments or revisions thereof pursuant to this chapter.

“Amendments” means changes to the Statewide and areawide WQM plans that may be proposed and adopted under N.J.A.C. 7:15-3.4.

“Applicant” means any person, corporation, government body or other legal entity which applies for an approval pursuant to this chapter.

“Areawide plan” or “areawide WQM plan” means the areawide WQM plan authorized in Section 5 of the Water Quality Planning Act (N.J.S.A. 58:11A-1 et seq.), and Sections 208 and 303 of the Clean Water Act, 33 U.S.C. § 1251 et seq.

“Authority” means a sewerage authority as defined in N.J.S.A. 40:14A-3(5), or a municipal authority as defined in N.J.S.A. 40:14B-3(5).

“Best Management Practices (BMPs)” means:

1. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State; or
2. Methods, measures, or practices selected by an agency to meet its nonpoint source control needs.

BMPs also include treatment requirements, operating procedures, and techniques to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. BMPs include, but are not limited to, structural and nonstructural controls and operation and maintenance procedures. BMPs can be applied before, during, and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters.

“BPU-regulated sewer or water utilities” means sewer utilities or water utilities regulated by the Board of Public Utilities under N.J.S.A. 48:1-1 et seq. and N.J.A.C. 14:9.

“Category One waters” or “C1 waters” means waters designated as “C1 waters” in the Surface Water Quality Standards, N.J.A.C. 7:9B.

“Category Two waters” or “C2 waters” means waters designated as “C2 waters” in the Surface Water Quality Standards, N.J.A.C. 7:9B.

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“Clean Water Act” means the “Federal Water Pollution Control Act”, 33 U.S.C. §§ 1251 et seq., also known as the “Federal Act” including all subsequent supplements and amendments.

“Combined sewer overflow” or “CSO” means the excess flow from the combined sewer system which is not conveyed to the domestic treatment works for treatment, but transmitted by pipe or other channel directly to waters of the State.

“Combined sewer system” means a sewer system that is designed to carry sanitary sewage at all times and that also is designed to collect and transport stormwater from streets and other sources, thus serving a combined purpose.

“Commissioner” means the Commissioner of the New Jersey Department of Environmental Protection or his or her designee.

“Committed flow” means the sum of the actual flow plus the sum of all flows which are anticipated from connections which have been approved but are not yet in operation. The flow to be anticipated from any such connections shall be that flow approved by the Department.

“Composite zoning” means a compilation of various similarly zoned areas into a single representative zoning designation. Under composite zoning, residential zones that would allow a similar density of units would be consolidated into a single zone with an intermediate density of units that represents a weighted average of similar zones.

“Conservation restriction” means a restriction, easement, covenant, or condition, in any deed, will or other instrument, other than a lease, executed by or on behalf of the owner of the land, appropriate to retaining land or water areas predominantly in their natural state, scenic or open or wooded condition, or for the conservation of soil or wildlife, or for the outdoor recreation or park use, or for public access to tidal waterways and their shores, or as suitable habitat for fish and wildlife, or for preservation of continuing agricultural uses, to forbid or limit any or all of the following:

1. Construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above ground;
2. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials;
3. Removal or destruction of trees, shrubs or other vegetation;
4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance;
5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural condition;



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6. Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or fish and wildlife habitat preservation; or

7. Other acts or uses detrimental to the retention of land or water areas according to the purposes of this chapter.

“Consistency determination” means the written statement by the Department under N.J.A.C. 7:15-3.2, as to whether a project or activity listed in N.J.A.C. 7:15-3.1(b) is consistent with, inconsistent with, or not addressed by, adopted WQM Plans and this chapter.

“Continuing planning process” or “CPP” means the Statewide planning process conducted by the Department of Environmental Protection as authorized in Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7).

“County utilities authority” means any public body created by a county governing body pursuant to N.J.S.A. 40:14B-4a, or any sewerage authority or county sewer authority reorganized as a county utilities authority pursuant to N.J.S.A. 40:14B-6b.

“County water quality management plan” or “County WQM plan” means a county plan prepared by a county planning board pursuant to Section 5 of the Water Quality Planning Act (N.J.S.A. 58:11A-5).

“Department” means the New Jersey Department of Environmental Protection.

“Designated area” means an area designated by the Governor as an areawide WQM planning area pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

“Designated management agency” means an agency designated in an adopted WQM plan to implement one or more of the policies, objectives, and recommendations of that plan.

“Designated planning agency” means an agency designated by the Governor to conduct areawide WQM planning pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

“Designated use” means those surface water or ground water uses, both existing and potential, that have been established by the Department under the Surface Water Quality Standards, N. J. A. C. 7:9B, for the waters of the State.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, landfill, excavation, roads, sewers and other infrastructure and any use or change in the use of any building or other structure, or land or extension of use of land. Phased development shall be considered as a single project.

“District” means either any or all of the following, depending on the context: the district of a sewerage authority as defined in N.J.S.A. 40:14A-3(6), or the district of a municipal

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authority as defined in N.J.S.A. 40:14B-3(6), or the Passaic Valley Sewerage District as defined at N.J.S.A. 58:14-1.

“Disturbance” means the placement of impervious surface, the exposure or movement of soil or bedrock, or the clearing, cutting, or removing of vegetation.

“Domestic treatment works” or “DTW” means a publicly or privately owned treatment works and shall include a treatment works processing domestic wastes together with any ground water, surface water, storm water or industrial process wastewater that may be present.

“DTW” means “domestic treatment works”.

“Dwelling unit” means any building or portion of a building, permanent or temporary in nature, used or proposed to be used as a residence either seasonally or throughout the year.

“DWM” means the Division of Watershed Management, or its successor, in the Department of Environmental Protection.

“Effluent limitation” means any restriction on quantities, quality, discharge rates and concentration of chemical, physical, thermal, biological, radiological, and other constituents of pollutants established by permit, or imposed as an interim enforcement limit pursuant to an administrative order, including an administrative consent order.

“Emergency activities” means activities that are necessary to be performed in response to sudden or unexpected occurrences or conditions, in order to prevent loss of life, personal injury, severe property damage, or severe environmental damage.

“Endangered species” means species of wildlife included on the list of endangered species promulgated pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-13 et seq., at N. J. A. C. 7:25 – 4.13, and any species or subspecies of wildlife appearing on any Federal endangered species list pursuant to the Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

“Environmentally sensitive areas” means those areas identified in a Statewide or areawide WQM plan as land areas possessing characteristics or features which are important to the maintenance or improvement of water quality, or to the conservation of the natural resources of the State. Environmentally sensitive areas include, but are not limited to, areas mapped as endangered or threatened wildlife species habitat on the Department’s Landscape Maps of Habitat for Endangered, Threatened or Other Priority Species, Natural Heritage Priority Sites, wetlands and riparian zones.

“Equivalent dwelling unit” means the standard residential unit upon which the nitrate dilution model is based, which is a single family home with three bedrooms and three residents, or its equivalent in terms of flow generated or pounds of nitrate generated. The standard residential unit is assumed to generate 500 gallons per day of wastewater or 30 pounds per year of nitrate. The equivalency measure of 500 gallons per day is to be used for systems that do not

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have effluent limits established through a NJPDES permit. The equivalency measure of 30 pounds per year of nitrate is to be used for systems that have effluent limits for nitrate established through a NJPDES permit.

“Governmental entity” means a Federal, state, county or municipal government or school district whose jurisdiction is partially or entirely within New Jersey.

“Head of tide” means the point on a tidal watercourse at which measurement of the water surface vertical movement at Mean High Water becomes no longer practical. All points seaward of the head of tide on a tidal watercourse are tidal.

“Highlands Council” means the Highlands Water Protection and Planning Council established by N.J.S.A. 13:20-4.

“Highlands planning area” means that portion of the Highlands Region not included within the Highlands preservation area.

“Highlands preservation area” means that portion of the Highlands Region so designated by N.J.S.A 13:20-7b.

“Highlands Region” means that region so designated by N.J.S.A. 13:20-7.

“HUC 11” or “hydrologic unit code 11” means an area within which water drains to a particular receiving surface water body, also known as a watershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

“HUC 14” or “hydrologic unit code 14” means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

“Impervious surface” means any structure, surface, or improvement that reduces or prevents absorption of stormwater into land, and includes porous paving, paver blocks, gravel, crushed stone, decks, patios, elevated structures, and other similar structures, surfaces, or improvements.

“Individual subsurface sewage disposal system” means a system for the disposal of sanitary sewage into the ground, which is designed and constructed to treat sanitary sewage in a manner that will retain most of the settleable solids in a septic tank and discharge the liquid effluent to a disposal field.

“Industrial/commercial” means any project or activity engaged in manufacturing, production or sales of services or products.

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“Industrial treatment works” means an industrial treatment works as defined at N.J.A.C. 7:14A.

“Infill area” means a lot or lots existing on July 7, 2008 situated between two lots improved as of July 7, 2008 where the total amount of wastewater to be generated by all potential new development allowed by existing zoning at the time of application between the two previously improved lots is 2,000 gallons per day or less, as calculated in accordance with N.J.A.C. 7:14A-23.3. When calculating flow from lots zoned for single family residential development, 300 gallons per day per unit shall be utilized.

“Integrated Water Quality Monitoring and Assessment Report” means the biennial report prepared by the Department, pursuant to Section 305(b) of the Clean Water Act, 33 U.S.C. §1315(b), which inventories and assesses the quality of the waters of the State and includes the List of Water Quality Limited Segments required under Section 303(d) of the Clean Water Act, 33 U.S.C. 1313(d).

“Interim connection”, “interim construction” or “interim expansion” means interim connection, construction or expansion of wastewater facilities as described in N.J.A.C. 7:15-4.2(a)4.

“Intermittent stream” means surface water drainage channels with definite bed and banks in which there is not a permanent flow of water.

“Joint meeting” means a joint meeting as defined in N.J.S.A. 40:63-69.

“Lake, pond or reservoir” means any impoundment, whether naturally occurring or created in whole or in part by the building of structures for the retention of surface water, excluding sedimentation control, wastewater management and storm water management basins. Lakes, ponds and reservoirs are characterized by a long-term or permanent downgradient restriction of surface water flow from the impoundment and areas of quiescent water within the body of the impoundment. Lakes, ponds and reservoirs are frequently characterized by greater water depths within the impoundment than either the upgradient or downgradient surface water flow and by shallow water lateral edges containing emergent or submerged plant species. For regulatory purposes, the upgradient boundary of a lake, pond or reservoir shall be considered to be the point at which areas of greater depth and relatively quiescent water can be differentiated from the upgradient surface water input into the impoundment under average flow conditions.

“Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife” or “Landscape Maps” means the Department’s maps delineating areas used by or necessary for endangered and threatened species and other priority wildlife to sustain themselves successfully. The maps depict areas of contiguous habitat types (forest, grassland, forested wetland, emergent wetland and beach/dune) that are ranked based upon intersection with documented occurrences of endangered, threatened and priority wildlife species. Mapped habitat areas are classified based upon the status of the wildlife species whose presence is documented. Rank 5 is assigned to areas containing one or more documented occurrences of at least one wildlife species listed as endangered or threatened on the Federal list of endangered and threatened species. Rank 4 is

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assigned to areas with one or more documented occurrences of at least one State endangered species. Rank 3 is assigned to areas containing one or more documented occurrences of at least one State threatened species. Rank 2 is assigned to areas containing one or more documented occurrences of at least one non-listed State priority wildlife species. The maps also delineate, as Rank 1, habitat areas that meet habitat-specific suitability requirements, such as minimum area criteria for endangered, threatened and priority wildlife species, but that do not intersect with any documented occurrences of such species.

“Lead planning agency” means one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

“Linear development” means land uses such as roads, drives, railroads, sewerage and stormwater management pipes, gas and water pipelines, electric, telephone and other transmission lines and the rights-of-way therefor, the basic function of which is to connect two points. Linear development shall not mean residential, commercial, office, or industrial buildings, improvements within a development such as utility lines or pipes, or internal circulation roads.

“Load allocation” means the portion of a receiving water’s total maximum daily load for a specific pollutant that is allocated to existing or future nonpoint sources of pollution.

“Municipal authority” means a municipal authority as defined in the Municipal and County Utilities Authorities Law at N.J.S.A. 40:14B-3(5), and shall include a municipal utilities authority created by one or more municipalities and a county utilities authority created by a county.

“Municipal government” means a city, town, borough, village, township or other municipal government created by State law, which has an elected governing body, a chief executive, and municipal public officials including a municipal clerk, tax assessor, and tax collector.

“Natural Heritage Priority Sites” mean areas identified on the Department’s graphic information systems (GIS) coverage compiled from the Natural Heritage Database. The Natural Heritage Database is the manual and computerized file maintained by the Department at <http://www.nj.gov/dep/parksandforests/natural/heritage/index.html> that includes continuously updated information on the location and status of rare plant and animal species and ecological communities in New Jersey.

“NJPDES” means the New Jersey Pollutant Discharge Elimination System established in N.J.A.C. 7:14A.

“NJPDES discharge permit” means a permit issued by the Department under N.J.A.C. 7:14A for a discharge to surface water or a discharge to ground water.

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“Non-designated area” means an area not designated by the Governor as an areawide WQM planning area pursuant to Section 4 of the Water Quality Planning Act (N.J.S.A. 58:11A-4).

“Nonpoint source” means:

1. Any man-made or man-induced activity, factor, or condition, other than a point source, from which pollutants are or may be discharged;
2. Any man-made or man-induced activity, factor, or condition, other than a point source, that may temporarily or permanently change any chemical, physical, biological, or radiological characteristic of waters of the State from what was or is the natural, pristine condition of such waters, or that may increase the degree of such change; or
3. Any activity, factor, or condition, other than a point source, that contributes or may contribute to water pollution.

“Passaic Valley Sewerage Commissioners” means the body described by that name under N.J.S.A. 58:14-2.

“Passaic Valley Sewerage District” means the sewerage district now or hereafter described by that name under N.J.S.A. 58:14-1 et seq.

“Permitted flow” means maximum allowable flow (usually in million gallons per day, or other appropriate unit of flow such as gallons per day) for a treatment works as stated in the facility's NJPDES permit or TWA, whichever is less.

“Planning flow” means that daily flow which is estimated or anticipated to be contributed by wastewater generating facilities for their wastewater service area. Planning flow is based upon projected flow criteria values used in computing the projected flow to wastewater conveyance and treatment facilities contained in N.J.A.C. 7:14A-23.3 or N.J.A.C. 7:9A-7.4, as applicable for the type of wastewater facilities being proposed.

“Point source” means any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

“Process wastewater” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than non-contact cooling water. This definition includes the terms commercial wastewater and industrial wastewater as used in 40 CFR Part 503.

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“Public advisory committee” or “PAC” means a representative committee of interests formed for the purpose of advising the Department on policy and other relevant issues in the development and implementation of a watershed management area plan or TMDL.

“Public water supply” means a water supply providing piped water to the public for human consumption, if such system has at least 15 service connections or regularly serves at least 25 individuals.

“Purveyor” or “water purveyor” means any person who owns or operates a public water supply.

“Reclaimed water for beneficial reuse” or “RWBR” means water that meets restricted access or public access reuse requirements specified in a NJPDES permit that authorizes that water to be directly reused for non-potable applications in place of potable water, diverted surface water, or diverted ground water. The NJPDES permit shall specify a method of disposal (for example, discharge to surface water) of that water if these requirements are not met.

“Redevelopment” means the construction of structures or improvements on areas which previously contained structures or other improvements.

“Regional authority” means any sewerage authority created by the governing bodies of two or more municipalities pursuant to N.J.S.A. 40:14A-4(c), or any municipal authority created by the governing bodies of two or more municipalities pursuant to N.J.S.A. 40:14B-5.

“Restricted access reclaimed water for beneficial reuse” means the classification of reclaimed water where the possibility of exposure to the general population is minimal and/or worker exposure is controlled. This classification of water shall require at least secondary treatment and/or compliance with effluent limitation established in a NJPDES permit. Examples of “restricted access reclaimed water for beneficial reuse” are sewer jetting, street cleaning, dust control or irrigation of restricted access locations at treatment works facilities. “Restricted access reclaimed water for beneficial reuse” does not include irrigation of public places.

“Revisions” means changes to WQM plans under N.J.A.C. 7:15-3.5 that are necessary for one or more of the purposes set forth at N.J.A.C. 7:15-3.5(b).

“Riparian zone” means the land and vegetation within and directly adjacent to all surface waters including, but not limited to, lakes, ponds, reservoirs, perennial and intermittent streams, up to and including their point of origin, such as seeps and springs, as shown the Department's GIS hydrography coverages. There is no riparian zone along the Atlantic Ocean nor along any manmade lagoon or oceanfront barrier island, spit or peninsula.

The portion of the riparian zone that lies outside of a surface water is measured landward from the top of bank. If a discernible bank is not present along a surface water, the portion of the riparian zone outside the surface water is measured landward as follows:

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1. Along a linear fluvial or tidal water, such as a stream or swale, the riparian zone is measured landward of the feature's centerline;
2. Along a non-linear fluvial water, such as a lake or pond, the riparian zone is measured landward of the normal water surface limit;
3. Along a non-linear tidal water, such as a bay or inlet, the riparian zone is measured landward of the mean high water line; and
4. Along an amorphously-shaped feature, such as a wetland complex, through which a water flows but which lacks a definable channel, the riparian zone is measured landward of the feature's centerline.

"Sewage" means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff, that are discharged to or otherwise enter a domestic treatment works.

"Sewerage agency" means the Passaic Valley Sewerage Commissioners, a sewerage authority, a municipal authority or a joint meeting.

"Sewerage authority" means a sewerage authority created pursuant to the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq.

"Sewer service area" means the land area identified in an areawide WQM plan from which wastewater generated is designated to flow to a domestic treatment works or industrial treatment works. A distinct sewer service area is established for each domestic treatment works and industrial treatment works.

"Significant modification" means a significant alteration, expansion or other change that may reasonably be expected to affect the quantity of flow treated or the quality of the effluent discharged to the waters of the State or to a publicly owned treatment works.

"Site-specific pollution control plan" means a plan that details necessary structures or measures designed to control one or more specified pollutants or sources of pollution from a site.

"State" means the State of New Jersey.

"Statewide Water Quality Management Plan" or "Statewide WQM Plan" (formerly known as the Statewide Water Quality Management Program Plan) means the plan that, together with this chapter, directs and coordinates water quality planning and implementation activities for the entire State, and contains the written provisions of the CPP pursuant to Section 7 of the Water Quality Planning Act (N.J.S.A. 58:11A-7).

"Steep slope" means any slope equal to or greater than 20 percent as measured over any minimum run of 10 feet. Steep slopes are determined based on contour intervals of two feet or less.



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“Stormwater” means water resulting from precipitation (including rain and snow) that runs off the land’s surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewage or drainage facilities, or is conveyed by snow removal equipment.

“Stormwater runoff” means water flow on the surface of the ground or in storm sewers, resulting from precipitation.

“Subwatershed” means a portion of an identified watershed containing all the lands from which water, sediments and dissolved materials drain to a particular receiving surface water body or to a particular point along a receiving surface water body.

“Suitable habitat” means habitat featuring ecological characteristics that may provide for the breeding, feeding, resting or sheltering of any threatened and/or endangered animal species. Ecological characteristics may include, but are not limited to, seasonal wetland or dry land, roost sites, nesting grounds, spawning sites, feeding sites, vegetative community size, age, structure, or diversity; waterway or pond water quality, size, or substrate; and soil types or hydrologic characteristics.

“Surface water quality standards” means the rules at N.J.A.C. 7:9B which set forth, for the surface waters of the State, designated uses, use classifications and water quality criteria, and the Department’s policies concerning these uses, classifications and criteria.

“Threatened species” means species designated as “threatened” on the list defining the status of indigenous nongame wildlife species of New Jersey, promulgated pursuant to the Endangered and Nongame Species Conservation Act, N.J.S.A. 23:2A-1 et seq., at N.J.A.C. 7:25 – 4.17.

“Tidal watercourse” means a watercourse that is distinguished by periodic rise and fall of the water surface resulting from the gravitational interaction of the earth, the moon, and the sun.

“Total maximum daily load” or “TMDL” means a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards or a different target where the water quality is better than the water quality standard. It is the sum of the allowable loads of a single pollutant from all contributing point and nonpoint sources and includes a margin of safety and consideration of seasonal variations.

“Treatment works” means treatment works as defined at N.J.A.C. 7:14A.

“Treatment works approval” means an approval issued pursuant to N.J.S.A. 58:10A-6b and N.J.A.C. 7:14A.

“Trout maintenance waters” or “TM waters” means waters designated as TM waters in the Surface Water Quality Standards, N.J.A.C. 7:9B.

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"Trout production waters" or "TP waters" means waters designated as TP waters in the Surface Water Quality Standards, N.J.A.C. 7:9B.

"201 Facilities Plans" means the plans for wastewater facilities prepared pursuant to Section 201 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

"201 Facilities Planning agencies" means those agencies which are responsible for conducting 201 facilities planning, pursuant to Section 201 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

"209 Basin Plans" means water resources plans adopted pursuant to Section 209 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq.

"Undeveloped and underdeveloped areas" means areas that are either unimproved or contain existing improvements but could be further developed in a manner that would create additional wastewater flow without the need to obtain a variance, according to existing zoning.

"Upgrade" means a modification of a domestic or industrial treatment works to improve the quality of effluent discharged to surface water or ground water. The term "upgrade" does not include the construction or modification of any wastewater facilities that will allow an increased discharge, in terms of increased quantity of wastewater, loadings, sewer service area or collection system.

"Urbanized municipalities" means those where 90 percent of the municipality's developable land area appears as "Urban Lands" as designated in the New Jersey Department of Environmental Protection's 1995/97 and 2002 Land Use/Land Cover geographical information systems database as amended and updated, available as a digital data download from the Department at [www.state.nj.us/dep/gis](http://www.state.nj.us/dep/gis), based on Level I of the Anderson Classification System (Anderson et al, 1976, modified by the New Jersey Department of Environmental Protection, 1999).

"USEPA" means the United States Environmental Protection Agency.

"USGS quadrangle map" means any of the set of topographic maps published by the United States Geological Survey at 1:24,000 scale and known as "quadrangles" or "quads".

"Wasteload allocation" or "WLA" means the portion of a receiving water's total maximum daily load for a specific pollutant that is allocated to one of its existing or future point sources or categories of point sources of pollution. Wasteload allocations constitute a type of water quality based effluent limitation.

"Wastewater" means residential, commercial, industrial, or agricultural liquid waste, sewage, septage, stormwater runoff, or any combination thereof, or other residue discharged or collected into wastewater facilities. Wastewater shall not include stormwater runoff conveyed by a separate storm sewer system.

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“Wastewater facilities” means facilities that include, but are not limited to, any equipment, plants, structures, machinery, apparatus, or land that shall be an integral part of a treatment process or used for the ultimate disposal of residues resulting from such treatment, or any combination thereof, acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or other treatment of wastewater, wastewater sludges, septage or industrial wastes. Wastewater facilities also include, but not limited to, pumping and ventilating stations, treatment systems, plants and works, connections, extensions, outfall sewers, combined sewer overflows, intercepting sewers, trunklines, sewage collection systems, individual subsurface sewage disposal systems and other equipment, personal property and appurtenances necessary thereto.

“Wastewater management agency” means a governmental entity or sewerage agency designated in an areawide WQM Plan to plan, construct, or operate domestic treatment works.

“Wastewater management plan” or “WMP” means a written and graphic description of existing and future wastewater-related jurisdictions, wastewater service areas, and selected environmental features and treatment works.

“Wastewater management plan area” or “WMP area” means the geographic area for which a governmental unit has “wastewater management plan responsibility” as defined in N.J.A.C. 7:15-5.3(b).

“Wastewater management plan update” or “WMP update” means the periodic re-adoption of a wastewater management plan, with modifications as necessary from the pre-existing plan to meet the requirements of this chapter, for an entire WMP area.

“Wastewater management planning agency” means a governmental unit that has “wastewater management plan responsibility” as defined in N.J.A.C. 7:15-5.3(b).

“Wastewater service area” means a sewer service area, a general service area approved for wastewater facilities with planning flows of less than 20,000 gallons per day (gpd) which discharge to ground water and general service area for wastewater facilities with planning flows of less than 2,000 gallons per day (gpd) which discharge to ground water.

“Water quality based effluent limitations” means effluent limitations established so that the quality of the waters receiving a discharge will meet the Surface Water Quality Standards, N.J.A.C. 7:9B, after the introduction of the effluent.

“Water quality limited segment” means any waterbody segment which does not meet or is not expected to meet one or more of the Surface Water Quality Standards, N.J.A.C. 7:9B, applicable to the waterbody after implementation of technology-based or more stringent effluent limitations or pollution control requirements. A water quality limited segment requires development of a TMDL(s).

“Water quality management plans” or “WQM plans” means the plans prepared pursuant to Sections 208 and 303 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq., and the Water

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Quality Planning Act, N.J.S.A. 58:11A-1 et seq., including the Statewide, areawide, and county WQM Plans.

“Watershed” means a geographic area containing all the lands from which water, sediments and dissolved materials drain to a particular receiving surface water body or to a particular point along a receiving surface water body.

“Watershed management activity” means activities or projects undertaken by a watershed management group to improve the condition or prevent further degradation of a watershed, and may include, but need not be limited to, public meetings to discuss and exchange information on watershed issues, the establishment and operation of a stakeholders advisory group or groups or watershed associations dedicated to preserving and protecting a watershed, the monitoring, water quality modeling or assessment of the condition of a watershed, the development of policy goals to reduce the amount of pollutants discharged into a watershed, the development of projects designed to enhance or restore a watershed, the development, in consultation with the department, of a watershed management strategy, or the reassessment of a watershed to determine whether the policy goals or the objectives of a watershed management area plan or watershed management strategy have been attained.

“Watershed Management Area” or “WMA” means a regional area established by the Department that is comprised of multiple watersheds and subwatersheds. WMA delineations are available from the Department and on the DWM web page.

“Watershed Management Area Plan” or “WMA plan” means the plan developed and adopted by the Department, in consultation with the PAC, to protect and improve New Jersey's water and water-related resources by identifying actions to maintain, restore and enhance existing water quality, water quantity and ecosystem health, wherever attainable, within a watershed management area.

“Watershed management group” means a group recognized by the Department pursuant to N.J.A.C. 7:15-9.3(b) as the entity representing various interests within one or more watersheds or subwatersheds located in a watershed management area and whose purpose is to improve the condition or prevent further degradation of a watershed or watersheds.

“Watershed management strategy” means a plan developed by a WMG, in consultation with the PAC and the Department, to improve the condition of one or more watersheds or reassess a watershed to determine whether the policy goals or the objectives of the watershed management area plan or watershed management strategy have been attained.

“Wetlands” means those areas defined as wetlands under any of the following statutes and implementing rules as applicable:

1. New Jersey Coastal Wetlands Act, N.J.S.A. 13:9A-1 et seq., at N.J.S.A. 13:9A-2;
2. New Jersey Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-1 et seq., at N.J.S.A. 13:9B-3, and N.J.A.C. 7:7A-1.4;

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3. Coastal Area Facility Review Act, N.J.S.A. 13:19-1 et seq., at N.J.S.A. 13:19-4, and N.J.A.C. 7:7E-3.25; and

4. Pinelands Protection Act, N.J.S.A. 13:18-1 et seq., at N.J.S.A. 13:18A-3 and 13:18A-11, and N.J.A.C. 7:50-3.1, 6.3, 6.4 and 6.5.

“WMP” means wastewater management plan.

“Work programs and plans” means those documents that detail the specific work activities proposed as part of a water quality management program.

“WQM plan” means water quality management plan.

#### **7:15-1.6 Program forms and information; Internet web site**

(a) Forms or other information related to this chapter may be obtained from the Division of Watershed Management as follows:

1. Through the Division of Watershed Management website at [www.state.nj.us/dep/watershedmgt](http://www.state.nj.us/dep/watershedmgt); or

2. By contacting the Division of Watershed Management at: New Jersey Department of Environmental Protection, Division of Watershed Management, PO Box 418, Trenton, New Jersey 08625, (609) 984-0058.

(b) Applications and correspondence shall be submitted to the address in (a)2 above, except that courier and hand deliveries shall be delivered to: New Jersey Department of Environmental Protection, Division of Watershed Management, 401 East State Street, 7<sup>th</sup> Floor West Wing, Trenton, New Jersey 08625.

(c) Applications or other materials sent or delivered to a Department address other than those in (a) and (b) shall not be deemed to have been received for the purposes of calculating application review deadlines or other time periods under this chapter, until the application is actually received by the Division of Watershed Management, unless the application is being submitted directly to a permit program for a consistency determination under N.J.A.C. 7:15-3.2.

(d) Other Department sources of information referred to in this chapter are available on the Department of Environmental Protection's website at [www.state.nj.us/dep](http://www.state.nj.us/dep) or from the Office of Maps and Publications, located at 428 State Street, Trenton, New Jersey 08625, (609) 777-1038.

#### **7:15-1.7 Conservation restriction form and recording requirements**

(a) A conservation restriction required at N.J.A.C. 7:15-3.5(b)4x shall be recorded in the chain of title for all properties affected by the restriction.

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(b) A conservation restriction shall:

1. Be in the appropriate form and terms as specified and approved by the Department as protecting all environmental features in accordance with the definition of "conservation restriction" in this chapter and with the New Jersey Conservation Restriction and Historic Preservation Restriction Act, N.J.S.A. 13:8B-1 et seq. Conservation restrictions may include preservation of continuing agricultural uses pursuant to N.J.A.C. 7:15-3.5(b)4x(3);

2. Be recorded in accordance with the New Jersey Recording Act, N.J.S.A. 46:15-1.1 et seq., and

3. Run with the property and be binding upon the property owner and the successors in interest in the property or in any part thereof.

(c) The Department shall not grant any approval under this chapter until the applicant has provided to the Department proof that a conservation restriction complying with this section has been recorded in the office of the clerk of the county or the registrar of deeds and mortgages of the county in which the project or activity is located.

## SUBCHAPTER 2. PLANNING REQUIREMENTS

### **7:15-2.1 Continuing planning process (CPP)**

(a) The Department shall conduct a continuing planning process (CPP) whose written provisions shall be contained, directly or by reference, in the Statewide WQM Plan and this chapter. In conducting the CPP, the Department shall:

1. Integrate and unify the Statewide and areawide water quality management planning processes;

2. Encourage, direct, supervise and aid areawide water quality management planning;

3. Coordinate and integrate WQM plans with related Federal, State, regional and local comprehensive land use, functional and other relevant planning activities, programs and policies;

4. Identify aspects of the CPP that have been delegated to other State, Federal, interstate, or local agencies;

5. Provide opportunities for meaningful public participation in the water quality management planning process;

6. Conduct a Statewide assessment of water quality. The Integrated Water Quality Monitoring and Assessment Report shall be the principal water quality assessment component of the Statewide WQM Plan;

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7. Establish water quality goals and water quality standards for the waters of the State; and

8. Develop a Statewide implementation strategy to achieve the water quality standards and objectives and meet the requirements of Section 303(e) of the Clean Water Act (33 U.S.C. §§ 1251 et seq.), which shall include, but not be limited to:

i. The determination of effluent limitations and schedules of compliance at least as stringent as those required by the Clean Water Act (33 U.S.C. §§ 1251 et seq.);

ii. The identification of water quality limited segments;

iii. The determination of total maximum daily loads, wasteload allocations, and load allocations for pollutants;

iv. The incorporation of areawide and county WQM plans, applicable 209 Basin Plans, 201 Facilities Plans, and wastewater management plans;

v. The amendment and revision of WQM plans, including schedules for such amendment and revision;

vi. An inventory and ranking of needs, in order of priority, for the construction of wastewater facilities;

vii. The determination of priorities for the issuance of discharge permits;

viii. Methods for controlling all residual wastes from any water treatment processing; and

ix. Adequate authority for intergovernmental cooperation in water quality management activities.

(b) In order to accomplish one or more of the requirements of (a) above, the CPP may also include or otherwise address, but not be limited to, one or more of the following:

1. Identification of existing or potential surface or ground water pollution problems, caused by point or nonpoint sources;

2. Evaluation of programs for water pollution control based upon factors that may include, but not be limited to, technical feasibility; cost- effectiveness; public acceptability; economic, social, or environmental impact; or legal, institutional, managerial or financial capability;

3. Technical measures, regulatory programs, or non-regulatory programs for point or nonpoint source water pollution control, protecting water resources, protecting environmentally sensitive areas, or other water quality related issues;

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4. Designation of management agencies to implement one or more provisions of WQM plans; and

5. Other measures necessary to implement WQM plans.

#### **7:15-2.2 Relationship between the Statewide, areawide and county Water Quality Management Plans**

(a) The Statewide WQM Plan and this chapter contain the written provisions of the CPP. The Statewide WQM Plan and this chapter direct and coordinate water quality management planning and implementation activities for the entire State and serve as a guide for areawide planning. The Statewide Water Quality Management Plan adopted by the Commissioner on December 5, 1985 and all subsequent amendments and revisions thereto are hereby incorporated by reference into this chapter. This chapter is included within the Statewide WQM Plan.

1. The Statewide Water Quality Management Plan may be inspected at the Division of Watershed Management, Department of Environmental Protection, 401 East State Street, Trenton, New Jersey, or the Office of Administrative Law, Quakerbridge Plaza, Building 9, Trenton, New Jersey.

(b) The areawide WQM Plan is the basis by which the Department and the designated planning agencies conduct selected water quality management planning activities for a particular "area" or section of the State which has either designated or non-designated area status.

(c) If any elements of any areawide WQM plan conflict with any component of the Statewide WQM Plan identified under N.J.A.C. 7:15-3.1(e) or with this chapter, such elements shall be of no legal effect and shall be superseded by this chapter and the Statewide WQM Plan to the extent that such conflict exists.

(d) All WQM plans shall be consistent with State statutes and rules and to the extent they are not consistent shall have no legal force and effect.

(e) Every county planning board may conduct a county-wide water quality management planning process and prepare a county WQM plan.

1. County WQM plans shall not be in conflict with the Statewide WQM Plan, appropriate areawide WQM plans, or this chapter. If any elements of any county WQM plan conflict with the Statewide WQM Plan, appropriate areawide WQM plans, or this chapter, such elements shall be superseded by the Statewide WQM Plan, areawide WQM plans, or this chapter to the extent that such conflict exists.

2. Each county planning board that prepares or changes a county WQM plan shall transmit a copy of that plan or change to the DWM, and to any designated planning agency whose designated area includes part or all of the subject geographic area.



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3. Consistency of projects and activities with county WQM plans shall be required under N.J.A.C. 7:15-3.1 or 3.2, only to the extent that county WQM plans or components thereof are adopted into areawide WQM plans pursuant to N.J.A.C. 7:15-3.4 or 3.5.

### **7:15-2.3 Role of the Department**

(a) The Department shall:

1. Conduct a CPP and prepare a Statewide WQM Plan;
2. Prepare areawide WQM plans for non-designated areas;
3. Revise and amend the Statewide WQM Plan as necessary;
4. Coordinate and direct the activities of designated planning agencies;
5. Review and approve areawide work programs;
6. To the maximum extent feasible, act as a resource for designated planning agencies, county planning boards, and county boards of chosen freeholders, providing them with technical assistance, and information on best management practices and pollution control technologies;
7. Require the preparation and updating of wastewater management plans, and provide for their review and adoption into areawide WQM plans;
8. Establish and administer policies, procedures, standards, criteria, and rules for water quality and wastewater management issues;
9. Identify water quality limited segments;
10. Establish total maximum daily loads, wasteload allocations, load allocations, and water quality based effluent limitations;
11. Prepare an Integrated Water Quality Monitoring and Assessment Report, and other reports required from the State under the Clean Water Act, 33 U.S.C. §§ 1251 et seq.;
12. Perform consistency determination reviews, and otherwise ensure that projects and activities affecting water quality do not conflict with WQM plans or this chapter;
13. Delegate aspects and responsibilities of the CPP to other State, Federal, interstate, county or local agencies, and also withdraw or transfer such delegations as necessary; and
14. Make recommendations to the Governor regarding designation of planning agencies and planning areas under N.J.S.A. 58:11A-4.

### **7:15-2.4 Role of designated planning agencies**

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(a) The designated planning agencies shall:

1. Prepare, revise, and amend the areawide WQM plans for their designated areas;
2. Fulfill all responsibilities assigned to them under this chapter, the Statewide WQM Plan, the areawide WQM plan, their charter, any grant agreement, approved work program, and any agreement with the State;
3. Carry out other responsibilities as agreed with or assigned by the Department under N.J.A.C. 7:15-2.3; and
4. Ensure that the areawide WQM plan shall not be in conflict with any component of this chapter or the Statewide WQM Plan and shall not otherwise conflict with State statutes or duly promulgated rules.

(b) The Department and the designated planning agencies shall coordinate their work in shared river basins or sub-basins, and shall refer any conflicts concerning such coordination to the Commissioner for his mediation.

(c) If a previously designated area becomes a non- designated area as a result of action by the Governor, the Department shall conduct areawide water quality management planning for that area.

### SUBCHAPTER 3. PLAN ASSESSMENT, AMENDMENT AND ADOPTION

#### **7:15-3.1 Water quality management plan consistency requirements**

(a) All projects and activities affecting water quality shall be developed and conducted in a manner that does not conflict with this chapter or adopted WQM plans. The Commissioner shall not undertake, nor shall he or she authorize through the issuance of a permit, any project or activity that conflicts with applicable sections of an adopted WQM plan or with this chapter. For purposes of N.J.A.C. 7:15-3.1 and 3.2, "permit" includes permits, approvals, certifications, and similar actions. The Department shall conduct the consistency determination review or other consistency review for a Department permit concurrently with the Department's review of the permit application. The Department shall not issue the permit if the Department finds the project or activity to be inconsistent with a WQM plan or this chapter.

(b) The Department shall not grant permits for the following projects and activities before a formal consistency determination review under N.J.A.C. 7:15-3.2 has been completed:

1. New surface water or ground water discharges, or existing surface or ground water discharges proposing significant modifications, as well as expansions and upgrades, that require individual NJPDES discharge permits under the Pollutant Discharge Elimination System rules, N.J.A.C. 7:14A, and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;

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2. Treatment works that require treatment works approvals under the Pollutant Discharge Elimination System rules, N.J.A.C. 7:14A-22, and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq.;

3. Actions under the Coastal Permit Program rules, N.J.A.C. 7:7, that require:

- i. Individual permits; or
- ii. Authorizations under the coastal general permits at N.J.A.C. 7:7-7.5, 7.8, 7.13, 7.16, and 7.26;

4. Actions under the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A, that require:

- i. Individual freshwater wetland permits;
- ii. Individual open water fill permits;
- iii. Authorizations under the general permits at N.J.A.C. 7:7A-5.2, 5.2A, 5.6, 5.7, 5.10A, 5.10B, 5.10C, 5.11 and 5.11A; or
- iv. Transition area waivers for the following:
  - (1) Hardship transition area waivers under N.J.A.C. 7:7A-6.5;
  - (2) Transition area waivers for activities authorized under the general permits at N.J.A.C. 7:7A-5.2, 5.2A, 5.6, 5.10A, 5.10B, 5.10C, 5.11 and 5.11A;
  - (3) Special activity transition area waivers under N.J.A.C. 7:7A-6.3, except special activity transition area redevelopment waivers for redevelopment under N.J.A.C. 7:7A-6.3(f);
  - (4) Transition area averaging plan waivers under N.J.A.C. 7:7A-6.2; and
  - (5) Matrix type width reduction transition area waivers under N.J.A.C. 7:7A-6.4;

5. Construction of the following new solid waste facilities, other than hazardous waste facilities and minor expansions of solid waste facilities, regulated by N.J.A.C. 7:26:

- i. New sanitary landfills other than vertical expansions;
  - ii. New solid waste composting or co- composting facilities over one acre, but excluding leaf composting facilities;
  - iii. New resource recovery facilities and new solid waste materials recovery facilities;
- and

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- iv. New solid waste incinerators and thermal destruction facilities;
- 6. Sanitary landfill closures where leachate collection and control is required under N.J.A.C. 7:26;
- 7. Construction of new hazardous waste facilities regulated by N.J.A.C. 7:26;
- 8. Any major Highlands development in the Highlands preservation area that requires a Highlands Applicability and Water Quality Management Plan Consistency Determination pursuant to N.J.A.C. 7:38-2.4;
- 9. Construction of 50 or more realty improvements requiring a Department certification under the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.;
- 10. Adoption or amendment of environmental health ordinances to control water pollution under the County Environmental Health Act, N.J.S.A. 26:3A2-21 et seq.;
- 11. Actions that require water supply system certifications for new, altered or replacement nonpublic or public noncommunity water systems that expand capacity or extend service to a new area issued pursuant to the Safe Drinking Water Act rules, N.J.A.C. 7:10-12, where the Department is the administrative authority;
- 12. Actions that require water supply system construction or operation permits for new or modified public community water systems that expand capacity or extend service to a new area issued pursuant to the Safe Drinking Water Act rules, N.J.A.C. 7:10-11;
- 13. Actions that require well construction permits issued pursuant to the Well Construction and Maintenance; Sealing of Abandoned Wells rules, N.J.A.C. 7:9D, for the following well categories:
  - i. All category 1 potable water supply wells as identified at N.J.A.C. 7:9D-2.1(a)1;
  - ii. Category 2 non-potable water supply wells, specifically, irrigation, test, industrial and open loop geothermal wells, as identified at N.J.A.C. 7:9D-2.1(a)2; and
  - iii. Category 4 special use wells, specifically, closed-loop geothermal wells, as identified at N.J.A.C. 7:9D-2.1(a)4;
- 14. Actions that require new water usage certifications, or the renewals of water usage certifications if an increase in water withdrawal for a new or different use is proposed as part of the renewal, pursuant to the Agricultural, Aquacultural, and Horticultural Water Usage Certification rules, N.J.A.C. 7:20A;
- 15. Actions that involve diversions of surface or ground waters that require water supply allocation permits pursuant to the Water Supply Allocation rules, N.J.A.C. 7:19, except for activities requiring a temporary dewatering permit, short term water use or dewatering permit-

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by-rule under N.J.A.C. 7:19-2.17;

16. Actions that require a Department-issued permit under the Flood Hazard Area Control Act Rules, N.J.A.C. 7:13, except for:

i. Bank stabilization projects that use only vegetation and/or soil-bioengineering as described at section 650.1601(d)(2) of Chapter 16 of the USDA Natural Resource Conservation Service (NRCS) Engineering Field Handbook, published December 1996, incorporated herein by reference. Copies of the NRCS Engineering Field Handbook can be obtained from USDA-NRCS, 220 Davidson Ave., 4<sup>th</sup> Floor, Somerset, NJ 08873-4115 (telephone (732) 537-6040); and

ii. Permits-by-rule under N.J.A.C. 7:13-7;

17. Actions within the Hackensack Meadowlands District (see N.J.S.A. 13:17-4), that require water quality certifications pursuant to N.J.S.A. 58:10A-5.b and Section 401 of the Clean Water Act (33 U.S.C. §§1251 et seq.); and

18. Actions that require permits under the Dam Safety Standards, N.J.A.C. 7:20, for construction of Class I through III dams that are not covered by a permit-by-rule pursuant to N.J.A.C. 7:20-1.3.

(c) Projects and activities not listed in (b) above do not require a formal consistency determination review under N.J.A.C. 7:15-3.2, but shall not conflict with any applicable WQM plans.

(d) At the request of any person who intends to apply for a Department permit, the Department shall informally discuss with such person the consistency of such person's proposed project or activity with WQM plans and this chapter. Information provided by the Department in such discussions is for guidance only, and is not binding on the Department.

(e) The only components of the Statewide WQM Plan that shall be used in performing consistency determination reviews and other consistency reviews are those components of the Statewide WQM Plan specified or adopted under this chapter.

(f) Interested parties may comment on the consistency of Department permits with WQM plans and this chapter through the appropriate draft or final permit public review and comment process. Such comments shall be taken into consideration prior to the issuance of a final permit.

(g) At the request of any applicant whose proposed project or activity has been found by the Department to be inconsistent with a WQM plan or this chapter, the Department may informally discuss with that applicant the possible actions which that applicant might take to attempt to resolve the conflict. Such actions may include revising the project or activity to conform with the WQM plan and this chapter, seeking an amendment to the WQM plan under N.J.A.C. 7:15-3.4, seeking a revision to the WQM plan under N.J.A.C. 7:15-3.5, or appealing the Department's finding under N.J.A.C. 7:15- 3.9(a) or (g). The applicant may take such actions

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without regard to the existence or absence of a discussion or a request for a discussion under this subsection. Information provided by the Department in such discussions is for guidance only, and is not binding on the Department or the designated planning agencies. If the project or activity is in a designated area, the Department shall invite the designated planning agency to participate in the discussion.

#### **7:15-3.2 Procedures for consistency determination reviews**

(a) Except for applications for projects or activities in the Highlands preservation area, which are addressed in (d) below, a complete application for a consistency determination review shall, where applicable, include, but not be limited to, all of the information in 1 through 13 below. If the consistency determination is being requested as part of a permit application, information contained in that application need not be duplicated.

1. The name and address of the applicant;
2. The address of the location of the project or activity;
3. The lot and block numbers for the entire site where the proposed project or activity will occur;
4. The municipality and county names where the proposed project or activity will occur;
5. The total land area in acreage of the entire site of the proposed project or activity;
6. If there is an adopted applicable wastewater management plan, a certification by the applicant that the proposal was part of the zoning approval, without variance, upon which the wastewater management plan was based;
7. The approximate boundaries of the project or activity site clearly delineated on a USGS quadrangle map, including the title-name of the quad, or geographic information systems (GIS) coverage and the State Plane coordinates in NAD 1983 for a point at the center of the site. The accuracy of these coordinates should be within 50 feet of the actual point. For linear projects, the applicant shall provide State plane coordinates for the endpoints of those projects that are 1,999 feet or less, and, for those projects that are 2,000 feet or longer, the endpoints as well as additional coordinates at each 1,000-foot interval. For assistance in determining the State Plane coordinates for a site, see the i-Map webpage at [nj.gov/dep/gis/depsplash.htm](http://nj.gov/dep/gis/depsplash.htm);
8. A description of the type of proposed development or activity including the number of dwelling units if residential, or the proposed square footage if commercial, institutional or industrial;
9. A description of the proposed method of wastewater treatment. Indicate if the project or activity will be served by an individual subsurface sewage disposal system or identify the existing or anticipated domestic or industrial treatment works proposed to be used. If a new domestic or industrial treatment works is proposed, include the proposed owner and operator of

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the domestic or industrial treatment works and the proposed location of the domestic or industrial treatment works and the discharge location;

10. A description of the proposed water supply. Indicate if the project or activity will be served by an individual well, public community well, non-public community well or identify the existing or anticipated water service area including name of purveyor. If a new water service area is proposed, include the proposed water purveyor and the proposed location and type of water supply;

11. A folded site plan showing all of the following:

- i. All proposed site improvements;
- ii. A Department-verified wetlands delineation, if one exists;
- iii. Waterbodies within 300 feet of the proposed project; and
- iv. All steep slopes;

12. If an applicant intends to demonstrate that its project or activity site was not withdrawn from a wastewater service area because it is infill development pursuant to N.J.A.C. 7:15-8.1(b)1, the applicant shall include documentation regarding the following:

i. Proof there is a lawfully existing public sewer line in the right-of-way adjoining the project or activity site lot or lots such that a connection can be made without crossing any property lines other than that of the lot to be served and where such connection does not require the extension of a collection system;

ii. Proof the sewer lines existed on the date that wastewater service area was withdrawn; and

iii. Proof that the total flow projection from the lot or lots between the previously connected properties does not exceed 2,000 gallons per day; and

13. If an applicant intends to demonstrate that its project or activity is part of a residential development or subdivision of fewer than six dwelling units pursuant to N.J.A.C. 7:15-8.1(c)2, the applicant shall include documentation regarding previous development and development on contiguous parcels or property in accordance with N.J.A.C. 7:15-8.1(c)2, including, but not limited to, the size of the lot and the date the lot was created.

(b) Based upon potential negative water quality impacts of the project, the Department may require the applicant for a consistency determination to also include in its application information on potential water quality impacts and a site specific pollution control plan. In most cases, the Department intends that requirements for such inclusion shall be established through amendments to areawide WQM plans. Any areawide WQM plan that establishes such requirements shall specify the categories of projects that are subject to the requirements, the

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pollutants or sources of pollution that shall be addressed, and the geographic region in which the requirements apply, if that region is less than the entire designated area or non-designated area.

(c) Except for applications for projects or activities in the Highlands preservation area, which are addressed in (d) below, the Department shall perform consistency determination reviews in accordance with the following procedures:

1. Upon receipt of a complete application for consistency determination review or a complete permit application, the Department shall review the appropriate WQM plan and this chapter to determine whether the project or activity is consistent with the written provisions of the plan and this chapter. This review shall include, but not be limited to, the following plan components where applicable:

- i. Population forecasts;
- ii. Wastewater flow projections;
- iii. Available capacity at DTW or industrial treatment works;
- iv. Identification of appropriate DTW or industrial treatment works;
- v. Identification of appropriate wastewater service area;
- vi. Identification of appropriate project management agency;
- vii. Use of Best Management Practices for pollution control in accordance with the Stormwater Management rules, N.J.A.C. 7:8;
- viii. Identification of areas suitable or unsuitable for development with consideration of riparian zones and steep slopes;
- ix. Other water quality based policies, goals, objectives, or recommendations;
- x. 201 Facilities Plan grant conditions;
- xi. Total maximum daily load conditions or limitations; and
- xii. Water supply availability.

2. The Department shall complete this review within 90 days of receipt of a complete application for consistency determination review or within the timeframe as established in the rules for the applicable permit(s).

3. Upon completion of the review, the Department shall, except as provided in (c)4 below, issue a consistency determination. This determination shall state that the project or



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activity is either consistent with, inconsistent with, or not addressed by, the WQM plan and this chapter.

i. A project or activity shall be determined to be consistent if it is in accordance with the written provisions of the WQM plan and this chapter.

ii. If the WQM plans and this chapter do not contain provisions precluding a project or activity, then this shall be interpreted to mean that the project or activity is not addressed. A finding of "not addressed" is equivalent in effect to a finding of consistent.

iii. A finding of inconsistent means that the project or activity is in conflict with the written provisions of a WQM plan or this chapter.

4. If the Department finds that a project or activity is consistent or not addressed, then the Department may issue a statement of this finding to the applicant or may issue the permit without issuing a written consistency determination.

5. Except as provided in (c)6 below, all Department findings made for Department permits under (c)4 above shall be valid only for the permit application for which the consistency determination review was sought.

6. If a project or activity requires two or more Department permits, and if the Department makes a finding under (c)4 above for one of those permits, that finding shall be valid for the remaining Department permits unless:

i. The project or activity has become inconsistent, because of an amendment made to the WQM plan or this chapter after the initial finding; or

ii. The Department denies a permit in response to comments received under N.J.A.C. 7:15-3.1(f).

7. If the Department finds a project or activity to be inconsistent, then the Department shall notify the applicant in writing of the reasons for this finding. The applicant may request an informal discussion of the conflict under N.J.A.C. 7:15-3.1(g).

(d) For projects or activities in the Highlands preservation area, a complete application for a consistency determination review shall include all relevant information identified pursuant to N.J.A.C. 7:38-9.2 and 9.3. The Department shall perform consistency determination reviews for projects and activities in the Highlands preservation area in accordance with N.J.A.C. 7:38-11.2, 11.3 and 11.7.

### **7:15-3.3 (Reserved)**

### **7:15-3.4 Water quality management plan amendment procedures**

(a) The Department and the designated planning agencies shall propose amendments to

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the Statewide and areawide WQM Plans whenever such amendments are necessary or desirable. Amendments may be proposed for various reasons, such as to implement or comply with applicable State or Federal law; respond to new circumstances; improve the economic, social, or environmental impact of WQM plans; or resolve issues disclosed through the consistency review procedure.

(b) Procedures for amendment of the Statewide WQM Plan are as follows:

1. Water quality related provisions in present and future rules adopted by the Department shall be considered to be part of the Statewide WQM Plan. Such provisions may not be adopted, amended, or repealed through the WQM plan amendment process under (b)6 below.

2. Priority systems, intended use plans and project priority lists for wastewater facilities that are developed by the Department and accepted by the United States Environmental Protection Agency (USEPA) pursuant to USEPA regulations, or that otherwise are developed by the Department under N.J.A.C. 7:22, shall be considered to be part of the Statewide WQM Plan. Such priority systems and project priority lists shall be adopted or revised in accordance with USEPA regulations and N.J.A.C. 7:22, as appropriate, and shall not be adopted or revised through the WQM plan amendment process under (b)6 below.

3. Statewide Sludge Management Plans, District Sludge Management Plans and sludge management rules that are promulgated or approved by the Department pursuant to N.J.S.A. 13:1E-1 et seq. shall be considered to be part of the Statewide WQM Plan. Such plans and rules shall be promulgated, revised, updated or approved in accordance with N.J.S.A. 13:1E-1 et seq., and shall not be promulgated, revised, updated, or approved through the WQM plan amendment process under (b)6 below.

4. Lists of water quality limited segments, and schedules for TMDL development, which are developed by the Department under N.J.A.C. 7:15-6, shall be adopted as amendments to the Statewide WQM Plan. TMDLs developed in accordance with N.J.A.C. 7:15-6.3 shall be adopted as amendments to the relevant areawide WQM plan(s). However, such lists, and TMDLs shall be adopted or revised in accordance with N.J.A.C. 7:15-6 and shall not be adopted or revised through the WQM plan amendment process under (b)6 below.

5. A regional stormwater management plan prepared in accordance with N.J.A.C. 7:8-3 shall be submitted only by a lead planning agency as a proposed amendment to the applicable areawide WQM plan. In addition, the following changes to an adopted regional stormwater management plan shall be processed as amendments to applicable areawide WQM Plans under this section:

i. The addition, deletion or modification to any of the drainage area-specific water quality, groundwater recharge or water quantity objectives identified under N.J.A.C. 7:8-3.5;

ii. The addition, deletion or modification to any drainage area-specific design or performance standard developed under N.J.A.C. 7:8-3.6;

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iii. Any modification to a regional stormwater management plan that the Department or designated planning agency determines is likely to have a significant environmental, social, or economic impact; or

iv Any modification that the applicant requests be processed as an amendment.

6. Components of the Statewide WQM Plan other than (b)1 through 5 above may be amended by using the procedure specified in (g) below, except that the Commissioner shall render the final decision identified in (g)9 below.

(c) Areawide WQM plans for designated areas may be amended by designated planning agencies pursuant to their approved plan amendment procedures. The Department may amend the areawide WQM plan for any non designated area, pursuant to the procedures under (g) below. Amendments or provisions thereof for any areawide WQM plan whose specific purpose or effect is to address projects or activities covered by (i) below, or that are either proposed, constructed, operated or conducted by the State or Federal government, or that are regulated by the Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.), shall be processed only by the Department, regardless of whether the areawide WQM plan is for a designated area or a non-designated area. By the mutual consent of the Department and the designated planning agency, the Department may also process all other amendments to an areawide WQM plan for a designated area.

(d) Plan amendment procedures developed by the designated planning agencies shall be consistent with this section and approved by the Department. Such procedures shall include, but need not be limited to, provisions that:

1. Allow any interested person to submit to the designated planning agency written, documented petitions to amend the areawide WQM plan;

2. Provide for review by the Department of all proposed amendments prior to public notice;

3. Allow the Department to identify governmental entities, sewerage agencies, and BPU-regulated sewer or water utilities that shall be requested to issue written statements of consent for proposed amendments, such parties being in addition to any governmental entities, sewerage agencies, and BPU-regulated sewer or water utilities identified by the designated planning agency;

4. Provide for publication of public notice of proposed amendments in the New Jersey Register and in a newspaper of general circulation in the designated area; and

5. Provide for adequate public comment periods and opportunities for public hearings before the designated planning agency decides whether to approve an amendment.

(e) Designated planning agency plan amendment procedures approved by the Department prior to July 7, 2008 shall remain in full force and effect, unless or until modified by

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the designated planning agency and approved by the Department under this section. Where a designated planning agency does not have its own plan amendment procedure or where a designated planning agency is de-designated, the Department's plan amendment procedure in (g) below shall be used.

(f) Within 15 days of approving an amendment, a designated planning agency shall submit to the DWM a copy of the amendment, together with background information for that amendment. WQM plan amendments approved by designated planning agencies are valid only upon the subsequent adoption of such amendments by the Governor or his or her designee.

(g) The Department procedure for amendment of areawide WQM plans is as follows:

1. For amendments which are the Department's responsibility under (c) above, any interested person may petition the Department to amend the areawide WQM plan, or the Department may propose to amend the areawide WQM plan on the Department's own initiative. Applications for amendments shall be submitted to the Division of Watershed Management, Department of Environmental Protection, PO Box 418, 401 East State Street, 7<sup>th</sup> Floor, Trenton, New Jersey 08625-0029.

2. Except for applications for plan amendments for projects or activities in the Highlands preservation area, which are addressed in (j) below, applications for amendments shall include, but need not be limited to, a description of the proposed amendment, including documentation substantiating the need for the amendment, and other documentation as determined by the Department to be necessary to determine compliance with the criteria established at N.J.A.C. 7:15-5.24 and 5.25. Within 90 days of receiving an amendment application, the Department shall review the application and shall either:

i. Disapprove the amendment application, and return it to the applicant; or

ii. Return the amendment application to the applicant for additional information or other necessary changes. If the applicant then submits a revised amendment application, the Department shall, within 90 days of receiving the revised amendment application, review such application and render a decision under (g)2i above, this subparagraph, or (g)2iii below; or

iii. Decide to proceed further with the amendment application.

3. The Department shall notify the applicant and the applicable designated planning agency, if any, in writing of its decision under (g)2 above. If the Department's decision is to proceed further with the amendment application under (g)2iii above, then this notification shall include the public notice that shall be given for the proposed amendment. If the proposed amendment is a regional stormwater management plan, the Department shall also notify the Department of Community Affairs, the Department of Transportation, and the Department of Agriculture. The applicant shall request written statements of consent under (g)4 below, and shall give public notice by publication in a newspaper of general circulation at the applicant's expense. The Department shall maintain a list identifying the newspaper that shall be used for this purpose in each planning area. The public notice shall also be published in the New Jersey

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Register. In cases where such Department decisions include a requirement for a non-adversarial public hearing, the public notice shall provide at least 30 days notice of the hearing.

4. Requirements concerning written statements of consent for plan amendments are as follows:

i. As part of each notification of a decision under (g)2iii above, the Department may identify a list of governmental entities, sewerage agencies, and BPU-regulated sewer and water utilities that may be affected by, or otherwise have a substantial interest in, approval of the proposed amendment, and that shall be asked to issue written statements of consent for the proposed amendment. Within 15 days of receiving such notification, the applicant shall submit by certified mail (return receipt requested) a copy of the proposed amendment to these parties, with a request that they issue written statements of consent for the proposed amendment within 60 days of their receipt of the request.

ii. A written statement of consent shall include a statement that the party concurs with, or does not object to, the proposed amendment. Tentative, preliminary, or conditional statements shall not be considered to be statements of consent. A statement of consent by a governmental unit shall be in the form of a resolution by that unit's governing body. If the party objects in writing to the proposed amendment, the party shall state all reasons for objection in writing.

iii. The applicant shall promptly forward to the DWM a copy of all written statements of consent and other written comments received, and a copy of all requests for consent (with return receipts) sent to parties that did not provide written statements of consent or other written comments within 60 days of their receipt of such requests.

iv. Where a party identified under (g)4i above denies a request for a written statement of consent or does not issue a written statement of consent, the reasons therefor, if known on the basis of reasonably reliable information, shall be considered in making decisions under (g)8 and 9 below.

5. When the Department proposes to amend the areawide plan on its own initiative, the Department shall give public notice by publication in a newspaper of general circulation in the planning area, shall send copies of the public notice to the applicable designated planning agency, if any, and may hold a public hearing or request written statements of consent as if the Department were an applicant under (g)3 and 4 above. The public notice shall also be published in the New Jersey Register.

6. Interested persons, including, but not limited to, those from whom written statements of consent are requested under (g)4i or 5 above, may submit written comments to the DWM within 30 days of the date of the public notice. Interested persons may request that the public comment period be extended up to 30 additional days, and such extensions may be granted to the extent they appear necessary. Requests for such extensions shall be submitted in writing to the DWM within 30 days of the date of the public notice.

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7. Interested persons may also request that the Department hold a non-adversarial public hearing; such requests shall be submitted in writing to the DWM within 30 days of the date of the public notice. If there is significant interest, as determined by the Department, in holding a public hearing, then a public hearing will be held. A public notice providing at least 30 days notice of the hearing will be published in the New Jersey Register and in one newspaper of general circulation, and will be mailed to the applicable designated planning agency, if any, and to each party who was requested to issue a written statement of consent for the amendment. The public comment period will be extended until 15 days after the hearing. Except when the Department proposes to amend areawide WQM plans on its own initiative, the applicant shall, at the applicant's expense, mail the public notice, provide for publication of the public notice in one newspaper, secure a court stenographer, and provide three copies of a verbatim transcript of the hearing to the DWM.

8. If any data, information or arguments submitted during the public comment period or in response to a request for written statement of consent appear to raise substantial new questions concerning a proposed plan amendment, the Department may:

i. Reopen or extend the public comment period for no more than 30 additional days to give interested persons an opportunity to comment on the information or arguments submitted;

ii. Disapprove the proposed amendment and, where applicable, return it to the applicant;

iii. Return the amendment request to the applicant for necessary, substantial changes. If the applicant then submits a revised amendment request, the Department shall review such request in the same manner as a revised amendment request submitted under (g)2ii above; or

iv. Prepare a new proposed plan amendment, appropriately modified, for proposal under this section.

9. Except where the Department has already disapproved or returned the proposed amendment under (g)8 above, the Governor or his or her designee shall render a final decision on the amendment. Wastewater management plans and wastewater management plan updates shall not be approved unless documentation has been submitted to the Department demonstrating that municipal ordinances required under N.J.A.C. 7:15-5.25 have been adopted and conform to the requirements of this chapter. The Governor or his or her designee shall either:

i. Adopt the amendment as proposed;

ii. Adopt the proposed amendment with minor changes that do not effectively destroy the value of the public notice; or

iii. Disapprove the proposed amendment and, where applicable, return it to the applicant.

10. The Department shall provide written notification of the decision of the Governor or his or her designee to the applicant where applicable. Notice of the final decision shall also be published in the New Jersey Register.

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11. The Department shall retain the administrative record for WQM Plan amendments for the following periods of time:

i. For each amendment adopted under (g)9 above, a period of not less than three years from the effective date of the amendment.

ii. For each proposed amendment disapproved or returned under (g)2, 8, or 9 above, a period of not less than one year from the date of disapproval or return.

(h) (Reserved)

(i) Effluent limitations, including, but not limited to, water quality based effluent limitations, and schedules of compliance established as NJPDES permit conditions under N.J.A.C. 7:14A-13 shall be considered to be part of the areawide WQM plans. NJPDES permit conditions shall be modified only through the procedures specified in the Department's New Jersey Pollutant Discharge Elimination System rules (N.J.A.C. 7:14A), in accordance with applicable Department rules, and shall not be modified through the WQM plan amendment process under (c) or (g) above. This subsection, however, shall not preclude the adoption of effluent limitations or schedules of compliance in areawide WQM plans under (g) above, prior to the establishment of such effluent limitations or compliance schedules as new or revised NJPDES permit conditions.

(j) Applications for plan amendments for projects located in the Highlands preservation area that require a Highlands Preservation Area Approval shall be governed by the application filing and related procedures set forth in the Highlands Water Protection and Planning Act rules at N.J.A.C. 7:38-11.6. If the Department determines to proceed with the amendment application, then the amendment shall be processed in accordance with (g)3 through 11 above.

(k) Water quality management planning related documentation in 201 Facilities Plans approved by the Department and USEPA after May 31, 1975 shall constitute amendments to areawide WQM plans. This documentation may include, but is not limited to: selected facilities alternative, future design capacity and flows, treatment levels, sewer service areas, septage management areas, sludge and septage management and disposal plans, environmental constraints mapping, identification of management agencies, and grant conditions. Itemized abstracts of the appropriate documentation shall be available at the Division of Watershed Management. Water quality management planning related documentation in 201 Facilities Plans completed on or prior to May 31, 1975 may be adopted into areawide WQM plans on a case-by-case basis under (c) or (g) above.

(l) In preparing amendments to areawide WQM plans where a sewer connection ban is in effect under N.J.A.C. 7:14A-22.17 on a DTW or a wastewater management plan is not in compliance with the schedule at N.J.A.C. 7:15-5.23, the Department will not consider the alteration of the sewer service area for that DTW through an amendment of the WQM plan unless it is part of a WMP.

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**7:15-3.5 Water quality management plan review, revision, and certification**

(a) The Department and the designated planning agencies shall periodically review Statewide and areawide WQM Plans in order to propose appropriate amendments under N.J.A.C. 7:15-3.4, and to prepare appropriate revisions under this section.

(b) An application for a revision shall be submitted in writing to the Department in accordance with (d) below. The Department and the designated planning agencies shall prepare revisions to Statewide and areawide WQM Plans under this section whenever such revisions are necessary to:

1. Correct, clarify, or update erroneous, unclear, or outdated statements in Statewide and areawide WQM Plans regarding:

i. Development and wastewater treatment facilities existing at the time of the most recently adopted areawide WQM plan or amendment affecting the site; or

ii. Proposed projects, provided that all other Department approvals were received, in full compliance with applicable regulations, at the time of the most recently adopted areawide WQM plan or amendment affecting the site;

2. Transfer or assign wastewater management plan responsibility under N.J.A.C. 7:15-5.13;

3. Revise schedules for submission of wastewater management plans under N.J.A.C. 7:15-5.23(f);

4. Provide for the following substantive changes in Statewide and areawide WQM Plans where the Department determines, based on its assessment that the project for which the revision is proposed complies with the environmental standards established at N.J.A.C. 7:15-5.24 and 5.25, as applicable, that no significant individual or cumulative impacts will occur to environmentally sensitive areas or other natural resources (such as water supplies) due to the proposed revision (individually or in combination with past revisions in the area), that the changes are consistent with N.J.A.C. 7:15-3.6, 3.7, and 3.10 and that certain directly affected municipal and county agencies and other interests as identified by the Department have been provided an opportunity to review and comment on the proposed revision:

i. Any increase in flow (including both increased loadings and no increased loadings) from industrial treatment works where no change in wastewater service area or discharge type (for example, discharge to surface water or ground water) is proposed, the discharge is not to an impaired waterbody segment for which a TMDL has been proposed or adopted under N.J.A.C. 7:15-6.3 and where the applicant demonstrates there is adequate water supply in accordance with the most recent New Jersey State Water Supply Plan for the proposed additional flow. If the discharge is to an impaired waterbody and the discharge contains any of the parameters that are the basis for the impaired listing, the expansion may be allowed if the expansion is consistent with the WLAs set forth in an adopted TMDL developed for the affected waterbody for the listed



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parameters in the discharge. The Department may process such revisions prior to or simultaneously with a NJPDES permit for the same change in flow;

ii. The transfer of sewer service area from one domestic treatment works to another, provided that all affected wastewater management plans are current in accordance with the schedule at N.J.A.C. 7:15-5.23, the approved sewer service areas in the areawide WQM plan are currently contiguous in the area to be transferred, neither domestic treatment works is subject to a sewer connection ban, the proposed revision includes only areas currently designated for sewer service, both the sending and receiving wastewater management planning agencies concur with the proposed revision, and no new or expanded treatment works other than sewer line extensions is proposed as part of the revision;

iii. Any increase of 8,000 gpd or less in planning flow to an on-site discharge to ground water for an existing public school or public institution, using the same general type of treatment works (for example, direct discharge to ground water, spray irrigation);

iv. Any change in the estimated planning flow (see N.J.A.C. 7:15-5.16(b)8) or permitted flow (see N.J.A.C. 7:15-5.16(b)9) of less than 8,000 gallons per day to an existing NJPDES-regulated discharge to ground water, provided (b)4v below is satisfied unless the sewer service area is not changing and the same general type of treatment works is proposed;

v. Expansion of a future sewer service area to contiguous lots, where the expansion involves less than 100 acres, contributes less than 8,000 gallons per day of additional wastewater flow, and does not create a significantly new pattern of sewer development such that a significant potential or incentive is created for additional revisions or amendments to open new areas to sewer development. A revision under this subparagraph shall be processed only if the applicant demonstrates that the receiving domestic treatment works has sufficient capacity under the projected build-out to serve the proposed development in addition to its existing approved sewer service area, and any affected wastewater management plan is current in accordance with the schedule at N.J.A.C. 7:15-5.23;

vi. The utilization of individual subsurface sewage disposal systems where the project for which the revision is requested involves less than 100 acres and generates less than 8,000 gallons per day of wastewater flow (or a total of fewer than 23 residential dwelling units), only where the WMP is not in compliance with the schedule at N.J.A.C. 7:15-5.23 and the applicant demonstrates that the project for which the revision is proposed meets the nitrate planning standard at N.J.A.C. 7:15-5.25(h)2;

vii. The utilization of a RWBR project to reduce either existing or proposed wastewater discharges to surface waters below the head of tide or ground water discharges located within HUC 14 drainage areas which are wholly below the head of tide;

viii. The utilization of a RWBR project to reduce existing wastewater discharges to surface waters above the head of tide or ground water discharges located within HUC 14 drainage areas any part of which is above the head of tide, provided the following are met:

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(1) The utilization of RWBR will not increase or create an exceedance of the water availability in any HUC 11 in accordance with the assessment of water availability identified in the New Jersey State Water Supply Plan; and

(2) The utilization of RWBR does not cause an adverse effect on any downstream designated use, including without limitation, water supply, sewage treatment plant discharges, or aquatic life support;

ix. Connection of an existing structure with a malfunctioning subsurface sewage disposal system that is not currently within an approved sewer service area to an identified sewage treatment plant, provided the applicant demonstrates that it is not feasible to repair or replace the malfunctioning subsurface sewage disposal system under N.J.A.C. 7:9A-3.4 and the property where the existing structure is located is contiguous to the existing sewer line; or

x. The utilization of individual subsurface sewage disposal systems or a NJPDES-regulated discharge to ground water for a clustered residential development, where the applicant ensures that a minimum of 70 percent of the property is permanently restricted from development, subject to a conservation restriction prepared in accordance with N.J.A.C. 7:15-1.7, and provided that the following conditions are met:

(1) Where individual subsurface sewage disposal systems will be utilized, the density necessary to achieve the 2.0 mg/L nitrate planning standard in N.J.A.C. 7:15-5.25(e) and (h)2 is met for the overall project site and the ground water quality criteria of 10 mg/L is met at the edge of the developed portion of the clustered residential development;

(2) Except to account for unique site conditions, the development shall be located to maximize continuity of the preserved area and in areas that do not contain Natural Heritage Priority Sites or habitat patches identified as Rank 3, 4, or 5 on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife; and

(3) Existing agricultural land uses allowed to continue on the restricted portion are required to implement Best Management Practices by implementing the findings of a Conservation Plan developed by the Natural Resources Conservation Service; or

5. Provide for any modification in an adopted regional stormwater management plan that does not require an amendment under N.J.A.C. 7:15-3.4(b)5.

(c) The documents that are automatically adopted into the Statewide or areawide WQM Plans under N.J.A.C. 7:15-3.4(b)1 through 4, and 7:15-3.4(i) shall not be revised under this section.

(d) An application for a revision under (b)4 above shall include a detailed basis for the revision, including any documentation supporting the assertion that the project or activity qualifies as a revision, all applicable information listed in N.J.A.C. 7:15-3.2(a) and other documentation as determined by the Department to be necessary to determine compliance with the criteria established at N.J.A.C. 7:15-5.24 and 5.25. The Department will notify the applicant

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of any additional information it needs to determine if the proposal qualifies as a revision. If the Department is unable to determine that a proposed project or activity qualifies to be processed as a revision based on information in the revision application or submitted by the applicant after notification, the Department will review the proposal as a potential amendment pursuant to N.J.A.C. 7:15-3.4. Once the Department determines that a project or activity qualifies as a revision, the Department shall provide a copy of the proposed revision to the agencies identified in N.J.A.C. 7:15-5.22 and provide 21 days for these entities to comment on the proposed revision.

(e) The procedure for revision of Statewide and areawide WQM plans is as follows:

1. The Governor or his or her designee shall adopt revisions to areawide WQM plans and the Commissioner shall adopt revisions to the Statewide WQM Plan. Such revisions shall take effect immediately, unless the adoption notice specifies otherwise.

2. The Department shall, on an annual basis, make publicly available a list of adopted revisions to WQM plans. Under N.J.A.C. 7:15-3.4, interested persons may submit petitions to amend WQM plans to repeal or modify such revisions.

(f) Designated planning agencies shall revise areawide WQM Plans in accordance with procedures established by such agencies and approved by the Department. All revisions to areawide WQM plans are valid only upon their adoption by the Governor or his or her designee.

(g) The Governor or his or her designee shall certify adopted WQM Plans in accordance with United States Environmental Protection Agency regulations.

### **7:15-3.6 Coordination with Coastal Zone and Hackensack Meadowlands programs**

(a) In accordance with N.J.A.C. 7:7E-1.2(h), the Department's Rules on Coastal Zone Management, including, but not limited to, provisions concerning the New Jersey Meadowlands Commission at N.J.A.C. 7:7E-3.45, shall provide the basic policy direction for WQM planning in the New Jersey Coastal Zone defined at N.J.A.C. 7:7E-1.2(b), including, but not limited to, the Hackensack Meadowlands District described in N.J.S.A. 13:17-4.

(b) In accordance with N.J.A.C. 7:15-3.4(b)1, the water quality related provisions of N.J.A.C. 7:7E, including but not limited to N.J.A.C. 7:7E-8.4, are part of the Statewide WQM Plan.

(c) Under N.J.A.C. 7:7E-8.4 and Section 307(f) of the Coastal Zone Management Act, 33 U.S.C. §§ 1451 et seq., the Department's Coastal Management Program incorporates by reference all requirements established by or pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 et seq., including all requirements contained in this chapter and in WQM plans.

(d) For WQM plan amendments relating to the Hackensack Meadowlands District, the consultation requirement in N.J.S.A. 13:17-9(c) shall be met as follows:

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1. For amendments processed under N.J.A.C. 7:15-3.4(b)5, (b)6 or (c), the New Jersey Meadowlands Commission shall be requested to issue written statements of consent for such amendments under N.J.A.C. 7:15-3.4(g)3 and 4 or N.J.A.C. 7:15-3.4(d)3, as appropriate.

2. For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)4, (i), or (k) that automatically incorporate into Statewide or areawide WQM Plans any Department or USEPA actions taken through rulemaking or other proceedings the consultation requirement in N.J.S.A. 13:17-9(c) shall be addressed, as necessary, through those proceedings and shall not be independently addressed under this section.

### **7:15-3.7 Coordination with Pinelands program**

(a) In accordance with N.J.S.A. 13:18A-8, 16 U.S.C. § 471i(f), and the "Water Resources Planning" element (page 221) of the "Surface and Groundwater Resources Program" contained in Chapter Seven of the Comprehensive Management Plan adopted by the Pinelands Commission on November 21, 1980, comments shall be sought from the Pinelands Commission on proposed WQM plan amendments pertaining to the Pinelands Area defined at N.J.S.A. 13:18A-11 or the Pinelands National Reserve defined at 16 U.S.C. § 471i(c), to ensure that such amendments are consistent with the intent and programs of the Pinelands Protection Act, N.J.S.A. 13:18A-1 et seq., and section 502 of the National Parks and Recreation Act of 1978, 16 U.S.C. § 471i.

(b) The Department shall seek comments from the Pinelands Commission on proposed WQM plan amendments and revisions pertaining to the Pinelands Area and Pinelands National Reserve before making the decision required by N.J.A.C. 7:15-3.4(g)2 or 7:15-3.5(e), as appropriate.

(c) For other amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)4, (i), or (k) that automatically incorporate into Statewide or areawide WQM Plans any Department or USEPA actions taken through rulemaking or other proceedings, any need to seek comments from the Pinelands Commission shall be addressed, as necessary, through those proceedings and shall not be independently addressed under this section.

### **7:15-3.8 Validity of site specific water quality management plan amendments and revisions**

(a) No WQM plan amendment or revision hereafter adopted by the Governor or his or her designee is valid unless adopted in substantial compliance with this chapter.

(b) Proposed site specific WQM plan amendments for which notice has been filed for publication or published in the New Jersey Register pursuant to N.J.A.C. 7:15-3.4(g)3 or 3.4(g)5 as of July 7, 2008 shall be subject to the rules in effect on July 6, 2008. Where the Department disapproves or returns the proposed amendment pursuant to N.J.A.C. 7:15-3.4(g)8, and the applicant submits a new or modified site specific plan amendment, the new or modified proposed plan amendment shall be subject to the rules in effect at the time of the subsequent submittal.

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(c) Proposed WQM plan revisions that have been submitted to the Department but not adopted pursuant to N.J.A.C. 7:15-3.5(e)1 as of July 6, 2008 shall be subject to the rules in effect as of July 7, 2008.

(d) Site specific amendments and revisions adopted prior to July 7, 2008 shall be valid for six years from the date of adoption or until the sewer service or wastewater service area is revoked under N.J.A.C. 7:15-8.1, whichever is later.

(e) Site specific amendments or revisions adopted after July 7, 2008 shall be valid for six years from the date of adoption, unless a wastewater management plan updated in accordance with N.J.A.C. 7:15-5.23 includes the site specific amendments or revision.

### **7:15-3.9 Appeals of Department decisions**

(a) Except as provided in (g) below, within 30 calendar days from receipt by the applicant of a written notification from the Department of the decision of the Department made pursuant to N.J.A.C. 7:15-3.1 or 3.2, 3.4(g)2i or ii or 3.4(g)8ii through iv, the applicant may request an adjudicatory hearing to contest the Department decision by submitting a written request to the Department, addressed to the Office of Legal Affairs, ATTENTION: Adjudicatory Hearing Requests, Department of Environmental Protection, PO Box 402, 401 East State Street, 4<sup>th</sup> Floor, Trenton, New Jersey 08625-0402. A copy of the request shall be submitted to Division of Watershed Management, Department of Environmental Protection, P.O. Box 418, 401 East State Street, 7<sup>th</sup> Floor, Trenton, N.J. 08625. The request shall include the following information:

1. The name, address, and telephone number of the applicant and its authorized representative if any;
2. The applicant's factual position on each question alleged to be at issue, its relevance to the Department's decision, specific reference to contested factors as well as suggested revised or alternative provisions;
3. Information supporting the applicant's factual position and copies of other written documents relied upon to support the request for a hearing;
4. An estimate of the time required for the hearing (in days and/or hours); and
5. A request, if necessary, for a barrier-free hearing location for disabled persons.

(b) A hearing request not received within 30 days after receipt by the applicant of a written notification from the Department of the decision of the Department, shall be denied.

(c) During the pendency of the review and hearing on a Department decision made pursuant to this chapter, the challenged Department decision shall remain in full force and effect, unless a stay is granted by the Department upon formal request by the applicant.

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(d) If the appellant fails to include all the information required by (a) above, the Department may deny the hearing request.

(e) If it grants the request for a hearing, the Department shall file the request for a hearing with the Office of Administrative Law. The hearing shall be held before an administrative law judge and in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. If the subject of the hearing is a proposed amendment to the areawide WQM plan for a designated area, the Department shall provide notice of the hearing to the designated planning agency for that area.

(f) Appeals of decisions made by designated planning agencies under this subchapter shall be made to a court of competent jurisdiction.

(g) An appeal of a consistency determination shall be made in accordance with the statutes and rules that govern the permit that is the subject of the decision. Such an appeal shall not be governed by (a) through (e) above.

(h) If the subject of a Department decision identified under (a) above is a proposed amendment to the areawide WQM plan for a designated area, the designated planning agency for that area may request an adjudicatory hearing to contest the Department decision, regardless of whether or not the applicant requests such a hearing. Such requests shall be governed by (a) through (e) above, and the designated planning agency shall be treated in the same manner as an "applicant" for purposes of those subsections.

(i) An appeal to contest any WQM plan amendment or revision on the ground of noncompliance with the procedural requirements of this chapter shall be commenced within one year from the adoption date of the plan amendment or revision.

#### **7:15-3.10 Coordination with Highlands Council**

(a) In accordance with the Highlands Water Protection and Planning Act (Highlands Act), N.J.S.A. 13:20-1 et seq., and the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38, the Department shall seek comments from the Highlands Council on proposed WQM plan amendments and revisions pertaining to the Highlands Region as defined at N.J.S.A. 13:20-7, before making the decision required by N.J.A.C. 7:15-3.4(g)2 or 7:15-3.5(e), as appropriate.

(b) For amendments to WQM plans under N.J.A.C. 7:15-3.4(b)1 through (b)4, (i), or (k) that automatically incorporate into Statewide or areawide WQM Plans any Department or USEPA actions taken through rulemaking or other proceedings, any need to seek comments from the Highlands Council shall be addressed, as necessary, through those proceedings and shall not be independently addressed under this section.

#### **SUBCHAPTER 4. WATER QUALITY AND WASTEWATER MANAGEMENT POLICIES AND PROCEDURES**

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**7:15-4.1 (Reserved)**

**7:15-4.2 Projects and activities deemed to be consistent with WQM plans and this chapter**

(a) The following treatment works are deemed to be consistent with WQM plans and this chapter:

1. Upgrades of domestic or industrial treatment works, including upgrades accomplished through construction of new treatment works at the same location, that do not exceed existing flows and do not exceed flows identified in areawide WQM plans. However, where levels of treatment are specified in areawide WQM Plans, upgrades that are not designed to achieve such treatment levels shall be deemed to be consistent only if such upgrades are in accordance with approved compliance schedules that provide for the future achievement of such treatment levels, and that are included in NJPDES discharge permits, court orders, or Department enforcement documents such as administrative orders or administrative consent orders.

2. Treatment works whose sole purpose is to abate an existing pollution problem, if such treatment works are required by the Department or USEPA.

3. Removal or remedial actions performed or required by the Department or by Federal agencies or by their agents, under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601 et seq., or other statutes authorizing Department or Federal removal or remedial actions for hazardous substances.

4. Interim construction or interim expansion of, or interim connection with, domestic or industrial treatment works that are required by law to be abandoned or incorporated at a definite time into other treatment works:

- i. That are under construction;
- ii. For which contracts have been awarded for construction; or
- iii. Whose construction is required by court order or Department order, or by a consent agreement to which the Department is a party.

5. Improvements to conveyance systems necessary to comply with the combined sewer overflows (CSOs) policy at N.J.A.C. 7:14A-11.12. This provision does not apply to wastewater facility expansions or upgrades.

(b) The initial performance of emergency activities, including, but not limited to, emergency activities allowed by emergency permits issued pursuant to N.J.A.C. 7:14A-6.14, is deemed to be consistent with the WQM plans and this chapter. The Department may require the results of an emergency activity to be removed or modified after such initial performance, in order to obtain conformance with a WQM plan or this chapter.

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(c) Restricted access reclaimed water for beneficial reuse activities for sewer jetting, street cleaning, dust control, and irrigation of restricted access locations at treatment works facilities are deemed to be consistent with the WQM plans and this chapter.

#### **7:15-4.3 Treatment works not identified in Water Quality Management Plans**

(a) Except as provided in N.J.A.C. 7:15-4.2 or 4.4, the following treatment works are considered to be inconsistent with the areawide WQM plan, and shall require an amendment or revision to that plan to be eligible for treatment works approvals, NJPDES discharge permits, or financial assistance under the Clean Water Act, U.S.C. §§ 1251 et seq., or under N.J.A.C. 7:22:

1. New domestic or industrial treatment works, or expansions of existing domestic or industrial treatment works, if such new treatment works or expansions are not identified in the existing areawide WQM plan, are not sewers, pumping stations, or significant indirect users (SIU) as defined in N.J.A.C. 7:14A-1.2 and would:

i. Directly discharge to surface waters, or onto the land surface (for example, spray irrigation or overland flow facilities); or

ii. Have a design capacity of greater than 2,000 gallons per day.

2. New DTW that would conflict with or be outside of future sewer service areas depicted in the areawide WQM plan.

(b) The provisions of (a) above apply whether treatment works approvals are sought for both construction and operation, or for construction only, of treatment works.

(c) This section does not apply to the following treatment works:

1. Activities identified under N.J.A.C. 7:14A-22.4 as not requiring treatment works approval;

2. Treatment works components that handle sludge only;

3. Industrial treatment works that do not handle process wastewater or sanitary sewage except that these discharges shall comply with any wasteload allocation established in an adopted TMDL;

4. A permanent holding tank that complies with N.J.A.C. 7:14A-22.13(c); or

5. Discharges to ground water of non-contact cooling water or discharges to ground water of filter backwash water from potable water treatment plants.

#### **7:15-4.4 Individual subsurface sewage disposal systems and other small domestic treatment works in sewer service areas**



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(a) Subject to the provisions of (b) and (c) below and of N.J.A.C. 7:15-5.19, depiction of future sewer service areas in wastewater management plans or elsewhere in areawide WQM plans shall not be construed to prohibit the lawful construction in such areas of the following DTW:

1. Individual subsurface sewage disposal systems for individual residences pursuant to N.J.A.C. 7:9A, provided that the cumulative amount of wastewater to be generated by the project or activity does not exceed 2,000 gallons per day or five dwelling units; or

2. Other DTW that would have a design capacity of 2,000 gallons per day or less, and use either subsurface sewage disposal systems or other sewage disposal systems that would not directly discharge to surface water or onto the land surface.

(b) DTW identified in (a) above shall be constructed in depicted sewer service areas only if legally enforceable guarantees at the local government level are provided before such construction that the depicted sewer service will be used when it becomes available, and that any discharge to ground water will then be discontinued.

(c) DTW that are identified in a(2) above and that require treatment works approval shall not be constructed in the depicted sewer service area of a DTW on which a sewer connection ban is in effect under N.J.A.C. 7:14A-22.17, unless such construction would, even in the absence of the sewer connection ban, be cost-effective, environmentally sound, and feasible from the engineering standpoint.

## **SUBCHAPTER 5. WASTEWATER MANAGEMENT PLANNING REQUIREMENTS**

### **7:15-5.1 Wastewater management plan requirement for water quality management plan amendments and revisions**

(a) The Department will reject an application for an amendment or revision under N.J.A.C. 7:15-3.4(c) or (g) in areas where a wastewater management plan has not been adopted in accordance with the schedule established at N.J.A.C. 7:15-5.23, except as provided below:

1. The revision meets the requirements of N.J.A.C. 7:15-3.5(b)1 through 3, 4i, 4iii through iv, or 4vi through x; or

2. The specific purpose or effect of the amendment is to address projects or activities that are either proposed, constructed, operated or conducted by the State or Federal government, or that are regulated by the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq.

(b) The Governor or his or her designee shall adopt an amendment or revision only if the amendment or revision complies with this chapter.

### **7:15-5.2 Validity of previously adopted or submitted wastewater management plans**

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(a) Wastewater service area designations in wastewater management plans that are in compliance with the schedule established at N.J.A.C. 7:15-5.23 as of July 7, 2008 shall remain in effect for a period of six years from the date of WMP adoption or until July 7, 2009, whichever is later.

(b) Proposed wastewater management plans that have been filed with the Department as of July 7, 2008 shall be subject to the rules in effect on July 6, 2008 unless the Department disapproves or returns the proposed amendment pursuant to N.J.A.C. 7:15-3.4(g)2 or (g)8. If adopted, the wastewater service area designations shall remain in effect for a period of six years.

(c) Wastewater service area designations in wastewater management plans that are not in compliance with the schedule established at N.J.A.C. 7:15-5.23 or the sewer service area designations in the portions of areawide Water Quality Management plans where no wastewater management plan was ever prepared as of July 7, 2008 shall remain in effect until April 7, 2009.

(d) If a wastewater management plan is submitted by April 7, 2009, the wastewater service area designations in the wastewater management plan and the sewer service area designations in portions of areawide Water Quality Management plans where no wastewater management plan was ever prepared shall remain in effect until the submitted WMP or WMP update is either:

1. Disapproved or returned by the Department pursuant to N.J.A.C. 7:15-3.4(g)2 or (g)8;  
or

2. Adopted as a new wastewater management plan in accordance with this chapter.

(e) If the wastewater management planning agency does not submit a WMP or WMP update for a wastewater management plan that is not in compliance with the schedule established at N.J.A.C. 7:15-5.23 by April 9, 2009, or if the Department disapproves or returns the wastewater management plan, the Department shall withdraw the wastewater service area pursuant to N.J.A.C. 7:15-8.1.

(f) General wastewater service area designations for wastewater facilities with planning flows less than 20,000 gallons per day which discharge to ground water shall not be established or reestablished as part of a new or updated WMP.

### **7:15-5.3 Wastewater management planning agencies, wastewater management plan areas and wastewater management plan responsibility: general statement**

(a) A "wastewater management planning agency" (WMP agency) is a governmental unit that has "wastewater management plan responsibility" as defined in (b) below. A "wastewater management plan area" (WMP area) is the geographic area for which a wastewater management planning agency has "wastewater management planning responsibility."

(b) N.J.A.C. 7:15-5.4, 5.6 and 5.8 identify entities that have either "wastewater management plan responsibility" (WMP responsibility) for the wastewater management plan

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areas specified in those sections, unless alternative assignments of wastewater management plan responsibility are established under N.J.A.C. 7:15-5.13, or that have the responsibility to prepare and submit required elements of a wastewater management plan to the wastewater management planning agency. "Wastewater management plan responsibility" means the duty to:

1. Prepare, submit, and periodically update a wastewater management plan for the wastewater management plan area;
2. Provide comments on proposed amendments to wastewater management plans under N.J.A.C. 7:15- 3.4; and
3. Provide comments on proposed revisions to wastewater management plans under N.J.A.C. 7:15-3.5.

(c) Wastewater management plans shall be prepared, submitted, and periodically updated only by the wastewater management planning agencies for the corresponding wastewater management plan areas. Such wastewater management planning agencies shall submit wastewater management plans as requests to amend areawide WQM plans in accordance with the procedures specified in N.J.A.C. 7:15-3.4, and in accordance with the schedule specified in N.J.A.C. 7:15-5.23. A wastewater management planning agency may meet its responsibility to prepare and submit wastewater management plans by submitting wastewater management plans prepared by another party on behalf of that wastewater management planning agency.

(d) N.J.A.C. 7:15-5.4 and 5.13 apply notwithstanding any statements about wastewater planning responsibility contained in management agency designations or WQM Plans, or amendments thereto, issued or adopted before July 7, 2008.

(e) The identification under this subchapter of wastewater management plan areas and assignments of wastewater management plan responsibility does not, by itself, establish or change the designations of 201 facilities planning areas or 201 facilities planning agencies. Such designations may be established or modified only by specific provisions for that purpose in amendments to areawide WQM plans under N.J.A.C. 7:15-3.4, including but not limited to provisions in wastewater management plans under N.J.A.C. 7:15-5.18(i). The identification of wastewater management plan areas under this subchapter does not establish or change the designation of "planning areas" as defined in N.J.A.C. 7:22-10.1.

(f) Except as identified in N.J.A.C. 7:15-5.2(a) through (d), wastewater management plans and amendments thereto are valid only upon their adoption by the Governor or his or her designee as amendments to areawide WQM plans under N.J.A.C. 7:15-3.4.

(g) Wastewater management planning agencies may submit wastewater management plans that cover only a portion of their wastewater management planning area provided that the submitted wastewater management plan(s) addresses an entire municipality or municipalities.

#### **7:15-5.4 Responsibility of County Boards of Chosen Freeholders**

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A county board of chosen freeholders shall have wastewater management plan responsibility for a wastewater management plan area consisting of all of its county except as provided in N.J.A.C. 7:15-5.13.

**7:15-5.5 (Reserved)**

**7:15-5.6 Responsibility of sewerage authorities and municipal authorities**

(a) The Passaic Valley Sewerage Commissioners (PVSC), joint meetings, county utilities authorities, and every sewerage authority and every municipal authority that performs sewerage-related functions in at least part of its district shall provide, upon the request of the WMP agency, the following sewerage-related information regarding its district or wastewater service area to the wastewater management planning agency or agencies responsible for a wastewater management plan area in which it lies partially or wholly within:

1. The name and NJPDES discharge permit number of any DTW owned or operated by the entities in (a) above;

2. The existing permitted flow of each named DTW in million gallons per day;

3. The actual wastewater flow, by municipality, for each municipality within the sewer service area of each named DTW in million gallons per day;

4. The capacity allocation to each municipality within the sewer service area of each named DTW in million gallons per day;

5. A description of the legal or financial arrangement concerning the capacity allocation in (a)4 above;

6. Identification of committed flow not presently connected to each named DTW in million gallons per day for each municipality within the sewer service area;

7. Any information relevant to a future DTW expansion demonstrated to be needed in accordance with N.J.A.C. 7:15-5.25(d), including, but not limited to, stream studies or effluent characteristics;

8. Identification of any wasteload allocations in a total maximum daily load assigned to any named DTW and a proposed schedule to meet any non-compliance with the wasteload allocation;

9. Maps, prepared in accordance with the requirements at N.J.A.C. 7:15-5.20, showing the name, NJPDES discharge permit number, and the existing collection and conveyance systems of any named DTW; and

10. Any other information needed to satisfy the requirements of N.J.A.C. 7:15-5.16.

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(b) Except as provided in (c) below, a municipal authority performs "sewerage-related functions" if it:

1. Owns, leases, constructs, operates, or maintains sewerage facilities, or is a party to a contract providing for or relating to sewerage facilities;
2. Regulates the construction or use of sewerage facilities;
3. Is a permittee or co-permittee under N.J.A.C. 7:14A for a DTW, or has applied to be such a permittee or co-permittee;
4. Seeks WQM plan amendments for sewerage facilities;
5. Receives or seeks to receive Federal or State financial assistance for sewerage facilities; or
6. Is required by statute, rule, contract, court order, Department order, consent agreement, or other legal obligation to perform any of the activities listed in (b)1 through 5 above.

(c) The activities listed in (b)1 through 6 above shall not be considered "sewerage-related functions" if such activities are:

1. Performed solely to carry out the municipal authority's water supply, solid waste, chemical or hazardous waste, or hydroelectric power functions; or
2. Pertain solely to sewage that arises on property owned or leased by the municipal authority, and that is conveyed to sewerage facilities not owned, leased, operated, or maintained by the municipal authority.

(d) The Department may, at any time, send a letter to any municipal authority, requesting that authority to declare in writing whether or not that authority performs any of the sewerage-related functions listed under (b) and (c) above. If that authority does not make such a declaration within 90 calendar days of receipt of the letter, the Department shall, in the absence of information to the contrary, presume that the authority performs sewerage-related functions.

(e) Where one or more entity has responsibility for an area within one or more wastewater management planning areas, each entity shall provide all necessary sewerage-related information in accordance with (a) above regarding their district to each wastewater management planning agency responsible for wastewater management planning within the entity's district.

(f) For purposes of (e) above, "overlap" exists when the district of one authority is partially or completely within, or identical to, the district of one or more other authorities.

**7:15-5.7 (Reserved)**

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**7:15-5.8 Responsibility of municipalities**

(a) Upon the request of the WMP agency, every municipality shall provide the following information to the wastewater management planning agency:

1. Ordinances as required to demonstrate compliance with N.J.A.C. 7:15-5.25(f)3iii, (g)1, (g)3 or (g)6;

2. A map, prepared in accordance with the requirements at N.J.A.C. 7:15-5.20, identifying any public water supply service areas;

3. Where applicable, a septic management plan in accordance with N.J.A.C. 7:15-5.25(e)3;

4. In addition to (a)1 through 3 above, for urbanized municipalities provide:

i. Population projections; and

ii. Employment projections;

5. In addition to (a)1 through 3 above, for municipalities not subject to (a)4 above provide:

i. The current zoning map and associated ordinances; and

ii. A modified zoning map and associated ordinances as revised to demonstrate compliance with N.J.A.C. 7:15-5.25, as applicable.

**7:15-5.9 (Reserved)**

**7:15-5.10 (Reserved)**

**7:15-5.11 (Reserved)**

**7:15-5.12 (Reserved)**

**7:15-5.13 Alternative assignment of wastewater management plan responsibility**

(a) Alternative assignments of wastewater management plan responsibility, different from the assignment set forth in N.J.A.C. 7:15-5.4, shall be made and subsequently changed as revisions to WQM plans under N.J.A.C. 7:15-3.5.

(b) The Department may assign wastewater management plan responsibility to a municipality, if the municipality requests such responsibility and provided that the county WMP agency has not submitted or stipulates it does not intend to submit a WMP. As part of the application, municipalities requesting wastewater management plan responsibility must certify

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that the information it was required to submit at N.J.A.C. 7:15-5.8 was submitted to the county. Requests for municipal wastewater management plan responsibility shall be made by the municipality as part of an application for a revision to an areawide WQM plan or plans under N.J.A.C. 7:15-3.5. A municipality that becomes the wastewater management planning agency for itself through alternate assignment of wastewater management plan responsibility may submit a wastewater management plan directly to the Department.

(c) Where a wastewater management plan chapter has not been submitted or adopted for a municipality in accordance with the provisions at N.J.A.C. 7:15-5.2 or the schedule established at N.J.A.C. 7:15-5.23, wastewater service area designations within that municipality shall be withdrawn in accordance with N.J.A.C. 7:15-8.1.

#### **7:15-5.14 Wastewater management plan partition by municipality**

(a) A county-wide wastewater management plan shall include an independent chapter for each municipality in the county. Each chapter shall address the entire municipality.

(b) Each chapter within a county-wide wastewater management plan may be adopted, returned or disapproved under N.J.A.C. 7:15-3.4(g)2 and 8 independent of other chapters.

(c) Where a wastewater management plan chapter has not been adopted for a municipality in accordance with the provisions at N.J.A.C. 7:15-5.2 or the schedule established at N.J.A.C. 7:15-5.23, wastewater service area designations within that municipality shall be withdrawn in accordance with N.J.A.C. 7:15-8.1.

#### **7:15-5.15 Contents of wastewater management plans; general statement**

(a) Each wastewater management plan shall consist of written and electronic descriptions and maps of existing and future wastewater-related jurisdictions and wastewater service areas, public water supply service area served by each purveyor, and of selected environmental features. A wastewater management plan shall also include written and electronic descriptions and maps of specified categories of existing and future treatment works, if such treatment works presently exist or are necessary to meet anticipated wastewater management needs. More specific requirements for these written and electronic descriptions and maps are set forth in N.J.A.C. 7:15-5.16 through 5.20, 5.24 and 5.25 and 7:15-8.

(b) In accordance with N.J.A.C. 7:15-5.16 through 5.20 and 5.25 and 7:15-8, each wastewater management plan shall address all types of DTW and all methods of domestic wastewater disposal, including, but not limited to, individual subsurface sewage disposal systems, discharges to surface water and discharges to ground water to the extent that such DTW and methods of domestic wastewater disposal presently exist or are necessary to meet anticipated wastewater management needs. In accordance with N.J.A.C. 7:15-5.16 through 5.20 and 5.25 and 7:15-8, each wastewater management plan shall provide information about specified categories of industrial treatment works.

#### **7:15-5.16 Existing jurisdictions, wastewater service areas, and treatment works**

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(a) Each wastewater management plan shall include maps of existing wastewater jurisdictions, existing wastewater service areas, and any existing treatment works in the categories specified in (a)3 or 5 below. These maps shall depict the following information:

1. The existing boundaries of the wastewater management plan area;
2. The boundaries, within the wastewater management plan area, of the following:
  - i. Any existing districts, franchise areas, and water or sewer service areas of any public utilities; and
  - ii. Any areas within the Hackensack Meadowlands District defined at N.J.S.A. 13:17-4, the Pinelands Area defined at N.J.S.A. 13:18A-11, the Pinelands National Reserve defined at 16 U.S.C. § 471i(c), the Highlands preservation area, the Highlands planning area defined at N.J.S.A. 13:20-3, or the "coastal area" described in N.J.S.A. 13:19-4.
3. The location, within or outside the wastewater management plan area, of each existing treatment works, if any, that is not a sewer or a pumping station, but that receives wastewater that arises within or is conveyed into or through the wastewater management plan area, if such treatment works is:
  - i. A DTW that directly discharges to surface waters, or onto the land surface (for example, spray irrigation or overland flow facilities);
  - ii. A DTW that has a design capacity of greater than 2,000 gallons per day, and stores or disposes of sewage by any means; or
  - iii. An industrial treatment works that requires a NJPDES discharge permit and that handles process waste water or sanitary sewage.
4. The location of each existing discharge to surface or ground water from each treatment works mapped within the wastewater management plan area under (a)3 above, and the location of any overflow discharges of sewage within the wastewater management plan area;
5. The location of each existing pumping station and major interceptor and trunk sewer, if any, within the wastewater management plan area;
6. The present sewer service area, within or outside the wastewater management plan area, for each:
  - i. DTW mapped within the wastewater management plan area under (a)3 above, distinguishing the separate area served by each DTW; and
  - ii. Industrial treatment works that is mapped within the wastewater management plan area under (a)3 above including property other than the property on which the industrial



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treatment works is located, distinguishing the separate area served by each industrial treatment works.

7. The present sewer service area, within the wastewater management plan area, for each:

i. DTW mapped outside the wastewater management plan area under (a)3 above, distinguishing the separate area served by each DTW; and

ii. Industrial treatment works that is mapped outside the wastewater management plan area under (a)3 above including property other than the property on which the industrial treatment works is located, distinguishing the separate area served by each industrial treatment works; and

8. Any areas within the wastewater management plan area that, as regards DTW, are presently served only by either or both of the following:

i. Individual subsurface sewage disposal systems for individual residences; or

ii. Other DTW that have a design capacity of less than 2,000 gallons per day, use either subsurface sewage disposal systems or other sewage disposal systems that have no direct discharge to surface water or onto the land surface.

(b) Each wastewater management plan shall provide the following information, in narrative, outline, or tabular form, for each existing treatment works or each existing DTW, as appropriate, mapped within the wastewater management plan area under (a)3 above:

1. Name and owner of the treatment works;

2. Name of any other governmental unit or corporation, if any, responsible for operating the DTW;

3. Location of the treatment works within municipality, county, and WQM planning area, and within any district;

4. NJPDES discharge permit number, if any, for any discharges from the treatment works;

5. Name of NJPDES permittee and any co-permittee under N.J.A.C. 7:14A for any discharges from the DTW;

6. Name and classification, under N.J.A.C. 7:9B and 7:9C, of any surface and ground waters receiving any discharges from the treatment works;

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7. Estimate of existing residential population served by the treatment works within and outside the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations;

8. Actual flow of wastewater received by the treatment works, in millions of gallons per day (MGD), expressed as total flow, as estimated flow arising within and outside the wastewater management plan area, and as estimated flow, disaggregated by municipality and attributed to each of the following sources: residential, commercial, industrial, and infiltration/inflow; and

9. Existing permitted flow of the DTW.

(c) Each wastewater management plan shall include the following information, in narrative, outline, or tabular form, for each existing treatment works mapped outside the wastewater management plan area under (a)3 above:

1. Name and owner of the treatment works;

2. Estimate of existing residential population served by the treatment works within the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and

3. Estimated average flow of wastewater conveyed to the treatment works from the wastewater management plan area, in millions of gallons per day, disaggregated by municipality and expressed as total flow and as estimated flow attributed to each of the following sources: residential, commercial, industrial, and infiltration/inflow.

(d) For a particular treatment works, the Department may waive the disaggregation of flow by municipality or land use under (b)8 and (c)3 above, if it is demonstrated to the satisfaction of the Department that such disaggregation would require data not readily available for that treatment works.

(e) Each wastewater management plan shall state whether or not there are combined sewers in the wastewater management plan area.

(f) For purposes of (a), (b) and (c) above, "existing" or "present" means permitted and/or constructed at the time the particular wastewater management plan is being prepared or updated, as the case may be.

#### **7:15-5.17 Mapping features requirements**

(a) Each wastewater management plan shall include mapping of each of the following features in the wastewater management plan area, and in any additional wastewater service area identified in that wastewater management plan under N.J.A.C. 7:15-5.18(c)4, 5.24, or 5.25:

1. Coastal wetlands that have been mapped by the Department under the Wetlands Act of 1970, N.J.S.A. 13:9A-1 et seq.;

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2. Other freshwater and estuarine wetlands, based on maps prepared by the Department under the Freshwater Wetlands Protection Act, N.J.S.A. 13:9B-25c;

3. Flood prone areas, based on the following information sources in order of preference:

i. Delineations of flood hazard areas made by the Department under the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50 et seq., where such delineations exist;

ii. Delineations of flood hazard areas by the Federal Emergency Management Agency under the National Flood Insurance Program, 42 U.S.C. §§ 4001-4128;

4. Public open space and recreation areas that include at least 10 acres of undeveloped land, including:

i. National recreation areas, wildlife refuges, and historical parks administered by the United States Department of the Interior;

ii. State and interstate parks, forests, wildlife management areas, natural areas, and recreation areas administered by the Department or the Palisades Interstate Park Commission; and

iii. County and municipal parks, reservations, preserves, and other conservation or recreation areas;

5. River areas designated under the New Jersey Wild and Scenic Rivers Act, N.J.S.A. 13:8-45 et seq., or the Federal Wild and Scenic Rivers Act, 16 U.S.C. §§ 1278 et seq.;

6. Category One waters, trout production waters, and trout maintenance waters designated in the Department's Surface Water Quality Standards, N.J.A.C. 7:9B, based on the Department's maps of such waters; and

7. Surface waters, as mapped on the Department's graphic information systems (GIS) hydrography coverage;

8. Suitable habitat for endangered and threatened species as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife as Rank 3, 4 and 5;

9. Natural Heritage Priority Sites;

10. Riparian zones;

11. Steep slopes, if available;

12. Current composite or municipal zoning;

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13. Municipal parcel mapping, if available;
14. All undeveloped and underdeveloped property, which could support additional or new sewage generating development, under current zoning;
15. All existing water service areas as defined at N.J.A.C. 7:10-11.5(c)6; and
16. All areas where sanitary or combined sewer collection and conveyance systems exist.

**7:15-5.18 Future wastewater jurisdictions, wastewater service areas, and domestic treatment works**

(a) In accordance with the provisions of this section, N.J.A.C. 7:15-5.24 and 5.25, each wastewater management plan shall include a description of wastewater service areas and DTW necessary to meet anticipated wastewater management needs over a 20-year period for urbanized municipalities or at build-out for all other municipalities. The description shall include:

1. Cost-effective, environmentally sound wastewater management, including regional management where appropriate; and
2. Examination of specific wastewater management alternatives as part of the preparation of the wastewater management plan in accordance with N.J.A.C. 7:15-5.25. The Department shall require such examination to include analysis of critical economic, social, environmental, or institutional factors pertaining to such alternatives.

(b) Except for urbanized municipalities, subject to the requirements, qualifications, and exceptions listed in (b)3 through 6 below, wastewater service areas and DTW shall be identified in such a manner as to provide adequate wastewater service for:

1. Land uses allowed in zoning ordinances that have been adopted and are in effect under N.J.S.A. 40:55D-62; or
2. The wastewater management plan shall identify relevant zoning ordinances on which the wastewater management plan is based specifying the type, density, and intensity of land use allowed in each district.
3. If, for particular locations, a zoning variance under article 9 of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., allows land development that would generate more wastewater than would the development allowed in the zoning ordinance, then for some or all of those locations the wastewater management plan may be based on the zoning variance rather than on the zoning ordinance.
4. If, for particular locations, preliminary or final subdivision or site plan approvals under article 6 of the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., have allowed land development that would generate more wastewater than would the development allowed in the

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zoning ordinance, then for those locations the wastewater management plan shall be based on such approvals rather than on the zoning ordinance.

5. Wastewater management plans relating to the New Jersey Coastal Zone, the Hackensack Meadowlands District, the Pinelands Area, or the Pinelands National Reserve are subject to the requirements of N.J.A.C. 7:15-3.6 or 3.7, as appropriate. Wastewater management plans relating to the Highlands Region are subject to the requirements of N.J.A.C. 7:15-3.10.

6. The proposed wastewater management plan may be inconsistent with zoning ordinances for compelling reasons, provided that the wastewater management plan specifically identifies such inconsistencies and sets forth such reasons with adequate documentation.

(c) Each wastewater management plan shall include maps of future wastewater service areas, and of specified categories of future DTW, that are necessary to meet anticipated wastewater management needs at the end of the 20-year period for urbanized municipalities, or at build-out for all other municipalities. These maps shall depict the following:

1. The location, within or outside the wastewater management plan area, of each existing, expanded, or new DTW, if any, that would not be a sewer or a pumping station, but that would receive sewage that would arise within or be conveyed into or through the wastewater management plan area, if such DTW would require a NJPDES discharge permit and:

i. Directly discharge to surface waters, or onto the land surface (for example, spray irrigation or overland flow facilities); or

ii. Have a design capacity of greater than 2,000 gallons per day, and store or dispose of sewage by any means;

2. The location of each discharge to surface or ground water from each DTW mapped within the wastewater management plan area under (c)1 above;

3. The location of each existing, expanded, or new pumping station and major interceptor and trunk sewer, if any, that would convey sewage within the wastewater management plan area;

4. The sewer service area, within or outside the wastewater management plan area, for each DTW mapped within the wastewater management plan area under (c)1 above, distinguishing the separate area to be served by each DTW;

5. The sewer service area, within the wastewater management plan area, for each DTW mapped outside the wastewater management plan area under (c)1 above, distinguishing the separate area to be served by each DTW; and

6. The area, if any, within the wastewater management plan area that would be served only by either or both of the following:

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- i. Individual subsurface sewage disposal systems for individual residences; or
- ii. Other DTW that would have a design capacity of 2,000 gallons per day or less, and use either individual subsurface sewage disposal systems or other sewage disposal systems that would have no direct discharge to surface water or onto the land surface.

(d) For each DTW mapped within the wastewater management plan area under (c)1 above, each wastewater management plan shall further identify the future DTW that are necessary to meet wastewater management needs by providing, in narrative, outline, or tabular form, the following information applicable to such DTW at the end of the 20-year period for urbanized municipalities, or at build-out for all other municipalities:

1. Owner and, where known, name of the DTW;
2. Name of any other governmental unit or corporation, if any, to be responsible for operating the DTW;
3. Location of the DTW within municipality, county, and WQM planning area, and within any existing district;
4. Where known, NJPDES permit number for any discharges from the DTW;
5. Name of present or proposed NJPDES permittee and any co-permittee for any discharges from the DTW;
6. Name and present classification, under N.J.A.C. 7:9B and 7:9C, of any surface and ground waters that would receive any discharges from the DTW;
7. Estimate of residential population to be served by the DTW within and outside the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and
8. Estimated average planning flow of wastewater in accordance with N.J.A.C. 7:15-5.25(d) to be received by the DTW, in millions of gallons per day, disaggregated by municipality and expressed as total flow, as flow arising within and outside the wastewater management plan area, and as flow attributed to each of the following sources: residential, commercial, and industrial.

(e) For each DTW mapped outside the wastewater management plan area under (c)1 above, each wastewater management plan shall further identify the future DTW that are necessary to meet wastewater management needs by providing, in narrative, outline, or tabular form, the following information applicable to such DTW at the end of the 20-year period for urbanized municipalities, or at build-out for all other municipalities, and at the end of any shorter or longer period identified under (a) above:

1. Owner and, where known, name of the DTW;

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2. Estimate of residential population to be served by the DTW within the wastewater management plan area, disaggregated by municipality and including any major seasonal fluctuations; and

3. Estimated average planning flow of wastewater in accordance with N.J.A.C. 7:15-5.25(d) to be conveyed to the DTW from the wastewater management plan area, in millions of gallons per day, disaggregated by municipality and expressed as total flow and as flow attributed to each of the following sources: residential, commercial and industrial.

(f) The wastewater management plan shall document the basis for the estimated planning flows attributed to residential, commercial, and industrial sources under (d)8 and (e)3 above. Where actual, accurate gauging is available for a sewer system already in existence, such gauging shall be used in preparing these flow estimates, with an allowance for future changes in wastewater flow. There shall be a reasonable relationship between these flow estimates and wastewater service areas identified under (c)4 and 5 above. There shall be a reasonable relationship, consistent with (b) above, between these wastewater service areas and residential population estimates under (d)7 and (e)2 above. The average domestic flow from new development, exclusive of industrial flows, shall be calculated utilizing the projected flow criteria found at N.J.A.C. 7:14A-23.3 or 7:9A-7.4, as applicable, for the type of wastewater facilities proposed. Wastewater flows shall be expressed as a 30-day average flow from DTW that discharge to surface water and as a daily maximum flow from DTW that discharge to ground water. In instances where future specific residential dwelling types are unknown, the residential flow calculation may be computed using 75 gallons per capita per day. No additional provisions for inflow and infiltration shall be made as the above flows include allowances for inflow and infiltration.

(g) Unless expressly stated otherwise in the wastewater management plan, disaggregations of estimated flows by municipality and land use under (d)8 and (e)3 above shall serve only to document the basis for estimates of total flow under those paragraphs, and shall not constitute legally enforceable flow allocations to those municipalities or land uses.

(h) If the Department has waived under N.J.A.C. 7:15-5.16(d) the disaggregation by municipality or land use of existing flow to a DTW, then the disaggregation of estimated flow by municipality or land use under (d)8 and (e)3 above shall be limited to disaggregation of future changes in wastewater flow to that DTW.

(i) A wastewater management plan may identify specific changes to assignments of wastewater management plan responsibility under N.J.A.C. 7:15-5.9, or specific changes to 201 facilities planning responsibilities. Such changes shall take effect upon adoption of the wastewater management plan under N.J.A.C. 7:15-3.4. A wastewater management plan may suggest the establishment, modification, or elimination of districts or franchise areas under N.J.S.A. 40:14A-1 et seq., 40:14B-1 et seq., 58:14-1 et seq., or 48:1-1 et seq., but such districts or franchise areas shall be established, modified or eliminated only in the manner provided by law. Inclusion of such suggestions in an adopted wastewater management plan does not, by itself, accomplish such establishment, modification, or elimination.

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**7:15-5.19 Individual subsurface sewage disposal systems and other small domestic treatment works in sewer service areas**

(a) In sewer service areas depicted under N.J.A.C.7:15-5.18(c)4 or 5, a wastewater management plan may require the construction of DTW identified in N.J.A.C.7:15-4.4(a)1 or 2 to be accompanied by construction of collection system sewers that would be used when the depicted sewer service becomes available. This requirement shall exist only if it is specifically stated in the wastewater management plan.

(b) A wastewater management plan shall require that individual subsurface sewage disposal systems for individual residences can be constructed in depicted sewer service areas only if legally enforceable guarantees at the local government level are provided before such construction that use of such systems will be discontinued when the depicted sewer service becomes available.

(c) A wastewater management plan shall not apply requirements under (a) or (b) above to individual subsurface sewage disposal systems that do not require certifications from the Department under N.J.S.A.58:11-25.1 or individual permits from the Department under N.J.A.C. 7:14A, unless that wastewater management plan includes adequate arrangements for enforcement of such requirements by one or more substate governmental units.

(d) Estimated wastewater flows under N.J.A.C. 7:15-5.18(d)8 and (e)3 shall include flows that would be received when use of DTW identified in N.J.A.C. 7:15-4.4(a)1 and 2 is discontinued when depicted sewer service becomes available.

**7:15-5.20 Specifications for text and graphics**

(a) Wastewater management plans should be concise, using the minimum feasible narrative and mapping. All pages, tables, and figures in wastewater management plans shall be legible and numbered. The text of wastewater management plans, wastewater management plan updates, WQM plan amendments and revisions shall be submitted in hard copy and in an electronic format that is compatible with the Department's software capabilities. Information regarding the Department's software capabilities may be obtained by contacting the Department at New Jersey Department of Environmental Protection, Division of Watershed Management, P.O. Box 418, Trenton, New Jersey 08625, (609) 984-6888. The applicant shall submit a minimum of five hard copies to the Department and, if the Department determines that more are needed based on the particulars of the proposal, the Department will notify the applicant.

(b) All maps in wastewater management plans, wastewater management plan updates, and WQM plan amendments and revisions shall be prepared and submitted in hard copy in a format which is consistent with the Department's mapping standards at N.J.A.C. 7:1D Appendix A and shall be in New Jersey State Plane Feet using the North American Datum of 1983 (NAD83), use 1:24,000 scale United States Geological Survey quadrangle maps as a base and shall meet "United States National Map Accuracy Standards," incorporated herein by reference as amended or updated, for that scale. The United States National Map Accuracy Standards



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were issued by the U.S. Bureau of the Budget, Revised June 17, 1947, and can be obtained at <http://rockyweb.cr.usgs.gov/nmpstds/nmas.html>. Other maps at other scales may be provided as supplements. Mapping information for wastewater management plans shall also be submitted in digital form compatible with the mapping standards at N.J.A.C. 7:1D Appendix A. The digital maps shall be accurate, at a minimum, to a scale of 1:12,000. The Department recommends that the creation of new digital mapping information for wastewater management plans be prepared in a format that conforms to the "New Jersey Department of Environmental Protection Geographic Information System Mapping and Digital Data Standards" guidance document, as amended or updated. Guidance related to the mapping and digital data standards is available at the Department's website at <http://www.state.nj.us/dep/gis>. Each wastewater management plan shall include the following main maps in hard copy and in digital form, except digital maps in (b)3 below already generated by the Department in GIS do not have to be submitted to the Department:

1. A map depicting the existing boundaries of the wastewater management plan area and the existing treatment works and wastewater service areas identified under N.J.A.C. 7:15-5.16(a)3 through 8;

2. A map depicting future DTW and wastewater service areas identified at the end of the 20-year period for urbanized municipalities, or at build-out for all other municipalities, under N.J.A.C. 7:15-5.18(c)1 through 5. Wherever feasible, the boundaries of future wastewater service areas shall coincide with recognizable geographic, political or environmental features depicted in Department GIS coverages used for the wastewater management plan. The existing boundaries of the wastewater management plan area shall also be depicted on any map under this paragraph; and

3. One or more maps depicting the existing boundaries of the wastewater management plan area, and the features identified under N.J.A.C. 7:15-5.17. This map shall also state that development in areas mapped as wetlands, flood prone areas, suitable habitat for endangered and threatened species as identified on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife as Rank 3, 4 and 5, Natural Heritage Priority Sites, riparian zones, steep slopes, or designated river areas may be subject to special regulation under Federal or State statutes or rules, and that interested persons should check with the Department for the latest information. Depiction of environmental features shall be for general information purposes only, and shall not be construed to define the legal geographic jurisdiction of such statutes or rules.

(c) Any other mapping required by N.J.A.C. 7:15-5.16 through 5.18, 5.24 and 5.25 may be included on one or more of the main maps listed in (b) above if the information is legible, or on other 1:24,000 scale maps.

#### **7:15-5.21 (Reserved)**

#### **7:15-5.22 Consultation and consent for wastewater management plans**

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(a) Every wastewater management planning agency that prepares a wastewater management plan or wastewater management plan update, and every governmental unit or other person that prepares an amendment to a wastewater management plan, shall, during such preparation, notify and seek comments from and offer to confer with:

1. All governmental units that have regulatory or planning jurisdiction over wastewater, water supply, or land use in that wastewater management plan area, or in any additional sewer service area identified or being considered for identification under N.J.A.C. 7:15- 5.16(a)6, 5.18(c)4, 5.24 or 5.25. Such governmental units shall include, but not be limited to: designated planning agencies, wastewater management planning agencies, county planning boards, municipal governing bodies and planning boards, sewerage authorities, municipal authorities, joint meetings, the Passaic Valley Sewerage Commissioners, the New Jersey Meadowlands Commission, water purveyors, the Pinelands Commission, the Highlands Council, and the Delaware River Basin Commission, as appropriate.

2. All governmental units and public utilities, and all vendors of wastewater treatment systems or services under the "New Jersey Wastewater Treatment Privatization Act", N.J.S.A. 58:27-1 et seq., that:

i. Own, lease, operate, or maintain DTW that receive wastewater that arises within, or that is conveyed into or through, that wastewater management plan area, or in any additional sewer service area identified or being considered for identification under N.J.A.C. 7:15-5.16(a)6, [or] 5.18(c)4, 5.24 or 5.25;

ii. Are parties to contracts for such DTW;

iii. Are permittees or co-permittees under N.J.A.C. 7:14A for such DTW; or

iv. Are projected in a draft or previously adopted wastewater management plan for that wastewater management plan area to perform activities listed in (a)2 i, ii or iii above.

3. The criteria in (a)2 i through iv above are exclusive of collection facilities for sewage that arises only on nonresidential property owned or leased by the governmental unit, public utility, or vendor.

(b) Under N.J.A.C. 7:15-3.4(d)3 and (g)4, written statements of consent for wastewater management plans shall generally be requested from, at a minimum, the governing bodies of each of the governmental entities and sewerage agencies that are required to be notified under (a) above.

(c) Wastewater management plans relating to the New Jersey Coastal Zone, the Hackensack Meadowlands District, the Pinelands Area, or the Pinelands National Reserve are also subject to the requirements of N.J.A.C. 7:15-3.6, 3.7 or 3.10 as appropriate.

#### **7:15-5.23 Schedule for submission of wastewater management plans**

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(a) Each wastewater management planning agency shall prepare and submit a wastewater management plan update every six years from the date of last adoption unless an alternate schedule is established pursuant to (e) or (f) below as a request to revise the applicable areawide WQM plan under N.J.A.C. 7:15-3.5. Where no wastewater management plan has ever been adopted or a wastewater management plan has been adopted prior to July 7, 2002, the wastewater management plan is not current and is not in compliance with this section.

(b) If a wastewater management plan in compliance with the schedule in (a) above is not in place on July 7, 2008, the WMP agency shall submit a WMP or WMP update by April 7, 2009. If a municipality accepts wastewater management plan responsibility through alternative assignment under N.J.A.C. 7:15-5.13, the municipality shall submit a wastewater management plan by July 7, 2009 or in accordance with the schedule established in (e) below.

(c) If the wastewater management planning agency fails to comply with the schedule in (a) or (b) above or an alternative schedule established under (e) or (f) below, the general service areas for wastewater facilities with planning flows of less than 20,000 gallons per day which discharge to ground water, the general service area for wastewater facilities with planning flows of less than 2,000 gallons per day which discharge to ground water, and sewer service areas shall be withdrawn in accordance with N.J.A.C. 7:15-8.1.

(d) Each municipal wastewater management plan chapter established through alternative assignment of WMP responsibility under N.J.A.C. 7:15-5.13 and adopted in accordance with the schedule established at (e) or (f) below shall be current for a period of six years unless the WMP chapter becomes part of a county-wide WMP. Where a municipal WMP chapter is incorporated into a county-wide WMP, the municipal WMP chapter shall assume the same six-year WMP update schedule as the county-wide WMP in accordance with the schedule at (a) above.

(e) Each WQM plan revision that makes or changes alternative assignments of wastewater management plan responsibility under N.J.A.C. 7:15-5.13 shall include a schedule for submission of the corresponding wastewater management plan.

(f) Alternative schedules for submission of wastewater management plans, different from those set forth under (a) through (e) above, shall be established and subsequently changed only if such alternative schedules or changes thereto are adopted as revisions to WQM plans. Reasons that may justify the establishment or changing of alternative schedules include, but are not limited to:

1. Coordination of wastewater management plans with the preparation of municipal or county master plans under N.J.S.A. 40:55D-28 or N.J.S.A. 40:27- 2, or with reexaminations under N.J.S.A. 40:55D-89;

2. Coordination between adjacent wastewater management plan areas;

3. The need for additional time to perform specific examinations required under N.J.A.C. 7:15-5.18(a)2 or 5.25(a) through (g);

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4. Coordination of wastewater management plans with the schedules of the NJPDES programs or of financial assistance programs under N.J.A.C. 7:22; and

5. The need to stagger the submission of wastewater management plans so that the Department can better manage its corresponding workload under N.J.A.C. 7:15-3.4.

(g) The Department may at any time request a wastewater management planning agency to submit written reports on the progress that such agency is making in meeting its wastewater management plan responsibility. Such agency shall submit such reports to the DWM within 30 calendar days of receiving such requests.

(h) Each wastewater management plan that updates one or more already existing wastewater management plan shall comply with N.J.A.C. 7:15-5.20 and include:

1. Updated maps and descriptions of the then existing wastewater jurisdictions, wastewater service areas, and facilities under N.J.A.C. 7:15-5.16;

2. Updated maps of features under N.J.A.C. 7:15-5.17;

3. Updated maps and descriptions of future wastewater jurisdictions, wastewater service areas, and facilities under N.J.A.C. 7:15-5.18, with due regard to changes in factors discussed in that section, such as adoption of new or amended zoning ordinances; and

4. A demonstration of compliance with the criteria at N.J.A.C. 7:15-5.24 and 5.25(a) through (g).

(i) A wastewater management planning agency may submit a wastewater management plan at any time prior to the period when such submission is required under (a) through (f) above. The establishment of an alternative schedule under (f) above is not required for such early submission.

#### **7:15-5.24 Delineation of sewer service areas**

(a) Sewer service may only be provided to areas that are not identified as environmentally sensitive areas at (b) below, coastal planning areas listed at (c) below, or special restricted areas at (d) below, except as provided at (e) through (h) below. Nothing in this section shall preclude the wastewater management planning agency from excluding additional areas from sewer service based on local planning objectives, the lack of wastewater treatment capacity or other environmental concerns, including, but not limited to, source water protection.

(b) Environmentally sensitive areas shall be defined based on a composite geographic information systems (GIS) analysis, as any contiguous area of 25 acres or larger consisting of any of the following features alone or in combination:

1. Areas mapped as endangered or threatened wildlife species habitat on the Department's Landscape Maps of Habitat for Endangered, Threatened or Other Priority Species.

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The data are available as a download at the Department's webpage <http://www.nj.gov/dep/gis/listall.html> titled "Landscape Project Data";

2. Areas mapped as Natural Heritage Priority Sites, excluding those lands within the boundaries of these sites mapped in the "Urban Lands" layer extracted from the Department's 1995/97 and 2002 Land Use/Land Cover geographical information systems database as amended and updated. Both the Natural Heritage Priority Site data and the Urban Lands data are available as a digital data download at the Department's webpage <http://www.nj.gov/dep/gis/listall.html> titled "Natural Heritage Priority Sites";

3. Special water resource protection areas along a Category One waters and their tributaries established under the Stormwater Management rules, N.J.A.C. 7:8. Surface waters that are designated Category One are listed in the Surface Water Quality Standards at N.J.A.C. 7:9B. These waters can be determined using the download available on the Department's webpage at <http://www.nj.gov/dep/gis/listall.html> titled "Surface Water Quality Standards"; and

4. Wetlands as mapped pursuant to N.J.S.A. 13:9A-1 and 13:9B-25. This data is available as a download on the Department's webpage <http://www.nj.gov/dep/gis/listall.html> titled "Wetlands."

(c) The following coastal planning areas identified on the CAFRA Planning Map, available at <http://www.nj.gov/dep/gis/listall/cafralayers.html> shall not be identified as sewer service areas:

1. Coastal Fringe Planning Areas;
2. Coastal Rural Planning Areas; or
3. Coastal Environmentally Sensitive Planning Areas.

(d) The following special restricted areas shall be excluded from the extension of new sewer service either through sewer service area mapping where local mapped information exists delineating these areas, or through narrative description in a wastewater management plan where a reliable mapping source does not exist:

1. Environmentally sensitive areas in which Federal 201 grant limitations prohibit the extension of sewer service;
2. Beaches as defined at N.J.A.C. 7:7E-3.22;
3. Coastal high hazard areas as defined at N.J.A.C. 7:7E-3.18; and
4. Dunes as defined at N.J.A.C. 7:7E-3.16.

(e) The applicant for a Water Quality Management plan amendment, including wastewater management plans, wastewater management plan updates or site specific

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amendments may rebut the presumption that the environmental data identified in (b) above is correct by providing the following information:

1. All of the information required at N.J.A.C. 7:15-5.26 for a habitat suitability determination that demonstrates that an area is not suitable habitat for endangered or threatened species;

2. A Letter of Interpretation issued by the Department pursuant to N.J.A.C. 7:7A-8 to demonstrate that an area is not wetlands; or

3. Any other information that demonstrates that the Department's GIS coverage is inaccurate at a particular location.

(f) Any area identified in (d) above may be added to the sewer service area upon submission of the information listed at (f)1 and 2 below. Where areas identified in (d) above are excluded in the mapping of sewer service areas, a formal amendment or revision to the wastewater management plan and areawide WQM plan under N.J.A.C. 7:15-3.4 or 3.5, as appropriate, shall be required. Where the areas are excluded by narrative criteria only, the submission of the information listed in (f)1 and 2 below shall be sufficient to make the project consistent with the areawide WQM plan for the particular criteria addressed:

1. A mapping revision or grant condition waiver issued by the U. S. Environmental Protection Agency for a project or site that would otherwise be subject to a 201 grant condition prohibiting the extension of sewers into environmentally sensitive areas; or

2. A CAFRA permit issued by the Department for a specific site and use approved under the Rules on Coastal Zone Management, N.J.A.C. 7:7E.

(g) Sewer service areas may include environmentally sensitive areas listed at (b) above provided:

1. The environmentally sensitive area is included either to allow infill development, or to remove undulations in the sewer service area boundary as necessary to create a linear boundary that relates to recognizable geographic features as allowed by N.J.A.C. 7:15-5.20(b)2; and

2. The Department determines that the environmentally sensitive areas included in the sewer service area are not critical to a population of endangered or threatened species, the loss of which would decrease the likelihood of the survival or recovery of the species in the State.

(h) Sewer service areas may include environmentally sensitive areas listed at (b) above provided it is designed to accommodate center based development and is an element of an endorsed plan approved by the State Planning Commission where:

1. The Department determines that the environmentally sensitive areas included in the sewer service area are not critical to a population of endangered or threatened species, the loss of which would decrease the likelihood of the survival or recovery of the species in the State;

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2. The Department has determined that the endorsed plan adequately addresses the protection of environmentally sensitive areas located outside of the designated sewer service area; and

3. The wastewater management planning agency has identified an adequate wastewater management alternative in accordance with N.J.A.C. 7:15-5.25(a) through (c).

#### **7:15-5.25 Evaluation criteria for wastewater management plans and amendments**

(a) The Department will only adopt a wastewater management plan, wastewater management plan update or wastewater management plan amendment if the applicant demonstrates compliance with the requirements in this section for existing and future wastewater treatment needs, water supply demands, and nonpoint sources of pollution. The Department will only process a revision under N.J.A.C. 7:15-3.5(b)4 if the Department determines, based on its assessment of the revision proposal, that it complies with the requirements in this section. The standards set forth in this section represent the minimum standards for approval of a wastewater management plan, wastewater management plan update or wastewater management plan amendment. WMP planning agencies or municipalities may incorporate more protective standards.

(b) Except as provided for a site specific amendment in (h) below, an application for approval of a wastewater management plan or wastewater management plan update shall include environmental analyses or assessments and meet the standards set forth in (c) through (g) below.

(c) An environmental build-out analysis shall be developed for each existing and proposed wastewater service area, except for those portions of sewer service areas that are located in urbanized municipalities. The build-out analysis shall be developed on a HUC 11 basis. Each HUC 11 shall be further disaggregated by municipality. Development shall also be broken down between areas within and outside of public water supply service areas. These delineations and associated analyses shall be based on the mapping and narrative requirements in N.J.A.C. 7:15-5.16 through 5.18 and 5.20 and shall be prepared in accordance with the following:

1. In areas not currently connected to sewers that are in an existing or proposed sewer service area, identify the development that is currently existing and intended to be connected to sewers, as well as the future development that can occur under existing zoning in undeveloped areas and is expected to connect to sewers, after removing wetlands and riparian zones. At the option of each municipality, other areas may be removed if they are not expected to connect to sewers, including, but not limited to, permanently preserved agricultural lands or public open space. Identify the development to be connected to sewers by acres and type, including number of residential units and measures of nonresidential development in terms used to calculate wastewater flow at N.J.A.C. 7:14A-23.3;

2. For undeveloped and underdeveloped areas outside of sewer service areas, identify the number of dwelling units that can occur consistent with the analysis at (e) below, without removing wetlands and riparian zones; and

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3. The information required in (c)1 and 2 above must be presented in tables and maps sufficient to demonstrate compliance with analyses of wastewater and water supply in (d) through (f) below.

(d) The existing and future wastewater treatment needs of each sewer service area and the specific treatment alternatives proposed to meet these needs shall be identified and evaluated in conformance with the following:

1. For areas identified to be served by existing or proposed expanded or new domestic or industrial treatment works that require a NJPDES permit, the applicant shall identify the existing wastewater generated and future wastewater generation potential within each existing or proposed new or expanded sewer service area as follows:

i. Determine the existing flows attributed to portions of the sewer service area that are connected to the facility based on the monthly average over the most recent 12 months, or the peak monthly average flow for treatment facilities that experience a seasonal peak resulting from transient populations, as reported in the Discharge Monitoring Reports required pursuant to N.J.A.C. 7:14A-6.8 for the facility;

ii. For urbanized municipalities, estimate future wastewater flows by multiplying the incremental population increase projected within a 20-year planning horizon from the date of WMP preparation, developed using the municipal master plan or other governmental or academic source, by a value of 75 gallons per capita per day and adding any known new non-residential flows including from, without limitation, expanded or redeveloped industries, landfill leachate or septage; and

iii. For municipalities not subject to ii above, estimate future wastewater flows from existing development that is not currently connected and future development using information developed in the environmental build-out in (c) above, and flow projections from N.J.A.C. 7:14A-23.3, and adding any known new non-residential flows including from, without limitation, new or expanded industries that do not conform to the categories at N.J.A.C. 7:14A-23.3, landfill leachate or septage;

2. Potential wastewater generation from each sewer service area shall not exceed the permitted capacity for each facility. Where the sewer service area encompasses more than one municipality, the potential wastewater generated in each municipality shall be compared to the amount of capacity allocated to that municipality. Where potential wastewater generation from any contributing municipality calculated in accordance with (d)1 above exceeds the flow allocated to that contributing municipality or if the total wastewater generation potential exceeds the permitted flow for each domestic or industrial treatment works, the WMP agency and/or affected municipalities shall either:

i. Reduce the sewer service area;



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ii. Change zoning to reduce the wastewater generation potential in the sewer service area;

iii. Identify new or expanded domestic or industrial treatment works sufficient to address the difference between the permitted flow and wastewater generation potential calculated in accordance with (d)1 above; or

iv. Submit a plan, including a commitment by the owner of the affected facilities to implement the plan and approved by the Department, to eliminate excessive infiltration and inflow sufficient to accommodate the increase in wastewater flow;

3. For each proposed new or expanded domestic or industrial treatment works with discharge to surface water, the applicant shall perform an antidegradation analysis in accordance with the antidegradation policies in the Surface Water Quality Standards at N.J.A.C. 7:9B-1.5(d). The applicant shall propose a wastewater treatment and disposal alternative only as consistent with the following hierarchy:

i. The applicant shall evaluate the feasibility of reclaiming wastewater for beneficial reuse by conducting a study in accordance with the Department's "Technical Manual for Reclaimed Water for Beneficial Reuse," as amended or supplemented, incorporated herein by reference. The Technical Manual for Reclaimed Water for Beneficial Reuse is available to be viewed or downloaded at <http://www.state.nj.us/dep/dwq/techman.htm>. RWBR shall be implemented to the extent determined to be feasible;

ii. Expansions of existing permitted domestic or industrial treatment works facilities shall maintain the current pollutant load, after compliance with any wasteload allocations imposed through an adopted total maximum daily load wasteload allocation, by increasing flow and improving the quality of treatment at the treatment works;

iii. To the extent that load increases cannot be avoided in accordance with (d)3ii above, new or expanded domestic or industrial treatment works shall achieve no measurable change in water quality in the receiving stream by adhering to water quality based effluent limits calculated based on a stream study approved by the Department or limits needed to comply with adopted total maximum daily load wasteload allocations;

iv. Where a new or expanded domestic or industrial treatment works discharging to Category Two waters will result in a measurable change in receiving water quality based on the stream study in (d)3iii above, the applicant shall make the demonstrations at N.J.A.C. 7:9B-1.9 to justify the proposed lowering of existing water quality; and

v. Where the demonstrations in (d)3i through iv cannot be made, the Department will not approve the proposed new or expanded domestic or industrial treatment works and the sewer service area must be adjusted such that wastewater generation potential does not exceed the permitted capacity;

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4. For areas to be served by a proposed new or expanded domestic or industrial treatment works with a discharge to ground water that will require a NJPDES permit, the applicant shall demonstrate compliance with Ground Water Quality Standards, N.J.A.C. 7:9C, through the permitting process and, for domestic treatment works, shall demonstrate consistency with the number of equivalent dwelling units, using the flow or mass basis as applicable, allowable based on the nitrate planning standard as determined at (e) below;

5. Where new or expanded domestic or industrial treatment works are proposed, demonstrate that water supply commensurate with the new or expanded capacity is available from a source that is consistent with water availability identified in the most current New Jersey State Water Supply Plan; and

6. For areas within the Highlands preservation area, the applicant shall additionally demonstrate that proposed wastewater facilities are consistent with the requirements as set forth in the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38.

(e) For areas not covered by (d) above, the future wastewater treatment needs of the entire remaining wastewater management planning area shall be evaluated in conformance with the following:

1. Except as provided in (e)2 below, in areas proposed to be served by individual subsurface sewage disposal systems discharging 2,000 gallons per day or less to ground water, the applicant shall determine the development density that can be accommodated in undeveloped and underdeveloped areas that will result in attainment of 2.0 mg/L nitrate in the ground water on a HUC 11 basis, as follows:

i. Determine the number of acres per equivalent dwelling unit using either:

(1) "A Recharge-Based Nitrate-Dilution Model for New Jersey v5.1" developed by the New Jersey Geological Survey incorporated herein by reference, as amended and supplemented, available at [www.state.nj.us/dep/watershedmgt/rules.htm](http://www.state.nj.us/dep/watershedmgt/rules.htm); or

(2) A simplified model using HUC 11 recharge values called "A Recharge-Based HUC11-Scale Nitrate-Carrying-Capacity Planning Tool for New Jersey, MS Excel Workbook, v1.0," incorporated by reference, as amended and supplemented available at <http://www.nj.gov/dep/watershedmgt/rules.htm>;

ii. Determine the number of undeveloped and underdeveloped acres in each municipality or portion thereof in each HUC 11 and divide the number of acres by the number of acres per unit calculated in (e)1i above to determine the number of additional allowable equivalent dwelling units;

iii. Apply existing zoning to all undeveloped and underdeveloped areas to determine the number of equivalent dwelling units for comparison to (e)1ii above. For nonresidential areas, convert the proposed development type to equivalent dwelling units by dividing the flow projected to be generated in accordance with N.J.A.C. 7:9A-7.4 by 500 gallons per day;

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iv. If the wastewater management planning entity determines that the number of additional equivalent dwelling units calculated in (e)1iii above exceeds the allowable number of additional equivalent dwelling units in (e)1ii above then the plan shall include an adjustment to the zoning in order to achieve consistency between zoning and the allowable number of additional equivalent dwelling units at build-out in the undeveloped and underdeveloped areas; and

v. The allowable number of additional equivalent dwelling units may be distributed within the HUC 11 at the discretion of the municipality(ies) provided that the total number of additional equivalent dwelling units in the HUC 11 does not exceed the allowable number calculated in (e)1ii above;

2. In the Highlands preservation area, the applicant shall demonstrate that proposed wastewater facilities are consistent with the requirements as set forth in the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38; and

3. Demonstrate that areas to be served by individual subsurface sewage disposal systems are subject to a mandatory maintenance program, such as an ordinance, which ensures that all individual subsurface sewage disposal systems are functioning properly. This shall include requirements for periodic pump out and maintenance, as needed.

(f) The Department will only adopt a WMP, WMP update or WMP amendment if water supply needs associated with the environmental build-out are demonstrated to be met with existing, new or expanded water supplies that do not conflict with the most current New Jersey State Water Supply Plan, regional water supply plans, or TMDLs adopted as WQM plan amendments including, but not limited to, any limitations on withdrawals due to ecological and saltwater intrusion concerns. The following information and analyses are required to be submitted by the WMP agency to allow a determination by the Department:

1. For each public water supply service area and for the area outside public water supply service areas, provide the following for each municipality, disaggregated by wastewater service area and on a HUC 11 basis:

i. An estimate of the amount of future water supply demand determined utilizing information developed under the environmental build-out analysis at (c) above and N.J.A.C. 7:10-11.5(f) or, in urbanized municipalities, assuming the equivalent of the wastewater generation of the incremental population increase; and

2. Where the Department determines that there is insufficient existing water supply available to provide for the needs identified in (f)1 above based on existing water allocation permits and the available water supply established in the most recent New Jersey State Water Supply Plan, regional water supply plans or adopted TMDLs, the WMP agency must identify measures to ensure an adequate water supply, including one or more of the following:

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i. Obtaining additional water supply through reuse as identified in accordance with the Department's "Technical Manual for Reclaimed Water for Beneficial Reuse" as amended or supplemented, incorporated herein by reference. The Technical Manual for Reclaimed Water for Beneficial Reuse is available to be viewed or downloaded at <http://www.state.nj.us/dep/dwq/techman.htm>;

ii. Obtaining water from a source with available capacity consistent with the most current version of the New Jersey State Water Supply Plan and consistent with the findings of any applicable regional water supply plan or an applicable Total Maximum Daily Load where one has been adopted;

iii. Adopting water conservation ordinances to reduce demand to match available supply;  
or

iv. Reducing the amount of water demand by reducing the amount or altering the type of planned future development.

(g) An assessment of nonpoint source pollution impacts of planned future development shall be conducted and it shall be demonstrated that the environmental standards for stormwater, riparian zones, and steep slopes established in this section, as well as measures identified in adopted TMDLs or watershed restoration plans, shall be met.

1. Ground water recharge shall be maintained and stormwater runoff quantity and quality shall be controlled in accordance with the requirements of the Stormwater Management rules, N.J.A.C. 7:8. Compliance with this standard shall be demonstrated by submission of an adopted stormwater management plan and an ordinance that conforms with the requirements of N.J.A.C. 7:8.

2. Riparian zones adjacent to all waters as described below in this paragraph shall be protected from avoidable disturbance:

i. The riparian zone is 300 feet wide along both sides of any Category One water, and all upstream tributaries situated within the same HUC 14 watershed;

ii. The riparian zone is 150 feet wide along both sides of the following waters not identified in (g)2i above:

(1) Any trout production water and all upstream waters (including tributaries);

(2) Any trout maintenance water and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water;

(3) Any segment of a water flowing through an area that contains documented habitat for a threatened or endangered species of plant or animal, which is critically dependent on the regulated water for survival, and all upstream waters (including tributaries) within one linear mile as measured along the length of the regulated water; and

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(4) Any segment of a water flowing through an area that contains acid producing soils; and

iii. A riparian zone 50 feet wide shall be maintained along both sides of all waters not subject to (g)2i or ii above.

3. Compliance with the riparian zone standard shall be demonstrated by submission of copies of municipal ordinances that prevent new disturbance for projects or activities except as provided in (g)3i and ii below:

i. Redevelopment within the limits of existing impervious surfaces; and

ii. New disturbance in the riparian zone necessary to protect public health, safety or welfare; to provide an environmental benefit; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.

4. Compliance with the riparian zone requirements of this chapter does not constitute compliance with the riparian zone or buffer requirements imposed under any other Federal, State or local statute, regulation or ordinance.

5. Adjustments to the riparian zones established by this subsection are allowed to the extent they comply with the Stormwater Management rules, N.J.A.C. 7:8, the Flood Hazard Area Control Act rules, N.J.A.C. 7:13, the Highlands Water Protection and Planning Act Rules, N.J.A.C. 7:38, and the Coastal Zone Management rules, N.J.A.C. 7:7E.

6. Steep slopes shall be protected from avoidable disturbance in accordance with this section. Compliance with this standard shall be demonstrated by submission of copies of municipal ordinances that prevent new disturbance for projects or activities except as provided in (f)6i and ii below:

i. Redevelopment within the limits of existing impervious surfaces; and

ii. New disturbance necessary to protect public health, safety or welfare; to provide an environmental benefit; to prevent extraordinary hardship on the property owner peculiar to the property; or to prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment.

7. A WMP, WMP update or WQM plan amendment shall include additional measures as specified in an adopted TMDL or watershed restoration plan.

(h) Site specific wastewater management plan amendments shall not create a significantly new pattern of sewer development such that a significant potential or incentive is

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created for additional revisions or amendments to open new areas to sewer development. Site specific wastewater management plan amendments and revisions at N.J.A.C. 7:15-3.5(b)4 shall comply with the environmental standards of (d), (e), (f) and (g) above except as provided in (h)1 through 6 below:

1. Instead of performing the calculation at (d)1 above for the entire sewer service area, the calculation required at (d)1 above shall be performed for the proposed project or activity. Where a project or activity is proposed to be included within an existing sewer service area, the planning flow shall be compared to the wastewater generation potential previously calculated for the sewer service area and the permitted capacity of the receiving wastewater treatment facility. If the project or activity will cause the wastewater generation potential of the expanded sewer service area to exceed the permitted capacity of the receiving wastewater treatment facility, or if the project or activity is proposed to be served by a new wastewater treatment facility, then the analyses at (d)2 through (d)4 above apply;

2. Instead of the analyses at (d)4 and (e)1 and 2 above, the following apply:

i. For projects utilizing discharge to ground water that are allowed to proceed in accordance with this chapter where a wastewater management plan is not in compliance with the schedule at N.J.A.C. 7:15-23, demonstrate that the wastewater generated by the project or activity can be discharged in conformance with the nitrate planning standard of 2.0 mg/L, considering dilution available on the project site, using one of the methods in (h)2i(1) through (3) below, as appropriate to the type of development:

(1) For residential development, "A Recharge-Based Nitrate-Dilution Model for New Jersey v5.1" developed by the New Jersey Geological Survey, incorporated herein by reference, as amended and supplemented available at [www.state.nj.us/dep/watershedmgt/rules.htm](http://www.state.nj.us/dep/watershedmgt/rules.htm);

(2) For nonresidential development, "A Recharge-Based Nitrate-Dilution Model for Small Commercial Establishments in New Jersey, v1.1" developed by the New Jersey Geological Survey, incorporated herein by reference, as amended and supplemented available at [www.state.nj.us/dep/watershedmgt/rules.htm](http://www.state.nj.us/dep/watershedmgt/rules.htm); or

(3) An alternative analytical method approved by the Department that is designed to assess the impacts of nitrate discharged from individual subsurface sewage disposal systems;

ii. For projects utilizing discharge to ground water where a wastewater management plan is in compliance with the schedule at N.J.A.C. 7:15-23, demonstrate that the discharge of wastewater generated by the project or activity is consistent with attaining the nitrate planning standard within the HUC 11, taking into account the demonstration in the approved WMP;

3. Instead of providing the information at (f)1 above for the entire wastewater management planning area, the information required at (f)1 above shall be provided for the proposed project or activity. The water supply need for the proposed project or activity shall be compared to water availability as established in the most recent New Jersey State Water Supply Plan, regional water supply plans or adopted TMDLs, and in consideration of other needs within

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the HUC 11, where the WMP is in conformance with the schedule at N.J.A.C. 7:15-5.23. If the project or activity would cause an exceedance of the established water availability, either alone or in combination with the other water supply need identified in a WMP in conformance with the schedule, then the analyses at (f)3 above apply;

4. Instead of the stormwater management requirements at (g)1 above provide:

- i. Proof that the project or activity is exempt from the requirements of N.J.A.C. 7:8;
- ii. Site specific stormwater design documentation to demonstrate the project or activity is in compliance with the requirements of N.J.A.C. 7:8; or
- iii. Proof of a municipal waiver or variance for the proposed project or activity in accordance with N.J.A.C. 7:8 through a municipal mitigation plan;

5. Instead of the riparian zone protection requirements at (g)2 above, demonstrate compliance with one of the following:

- i. The proposed project or activity is not in the riparian zone established at (g)2 above;
- ii. The proposed disturbance in a riparian zone is for a linear development with no feasible alternative route. If the riparian zone is associated with Category One waters, the linear development must also meet the requirements of N.J.A.C. 7:8-5;
- iii. The proposed disturbance of a riparian zone is in accordance with a stream corridor restoration or stream bank stabilization plan or project approved by the Department;
- iv. The proposed disturbance of a riparian zone is necessary to provide for public pedestrian access or water dependent recreation that meets the requirements of the Freshwater Wetlands Protection Act rules, N.J.A.C. 7:7A, the Flood Hazard Area Control rules, N.J.A.C. 7:13, or the Coastal Zone Management rules, N.J.A.C. 7:7E;
- v. The proposed disturbance of a riparian zone is required for the remediation of hazardous substances performed with Department or Federal oversight pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11a et seq. or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9601 et seq.;
- vi. The proposed disturbance is for redevelopment that does not exceed the limits of existing impervious surfaces; or
- vii. The proposed disturbance would prevent extraordinary hardship on the property owner peculiar to the property; or prevent extraordinary hardship, provided the hardship was not created by the property owner, that would not permit a minimum economically viable use of the property based upon reasonable investment; and/or

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6. In lieu of the requirements at (g)6 above, demonstrate through site plans depicting proposed development and topography that new disturbance is not located in areas with a steep slope, except as provided in (g)6i and ii above.

#### **7:15-5.26 Habitat Suitability Determination**

(a) Where an area is excluded from a sewer service area in accordance with N.J.A.C. 7:15-5.24 on the basis that it is within habitat patch of Rank 3, 4 or 5 on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife, an applicant may seek a Habitat Suitability Determination from the Department if it wishes to rebut the presumption that a habitat patch of Rank 3, 4 or 5 on the Department's Landscape Maps of Habitat for Endangered, Threatened and Other Priority Wildlife is accurate.

(b) An application for a Habitat Suitability Determination shall include:

1. A letter from the Department's Natural Heritage Program issued within six months of the date of application, stating if any threatened or endangered animals listed in the Natural Heritage database exist on or near the site. Information and forms relating to the Natural Heritage Program may be found on the Division of Parks and Forestry web page at [www.nj.gov/dep/parksandforests/natural/heritage](http://www.nj.gov/dep/parksandforests/natural/heritage) or obtained from the Office of Natural Lands Management, Natural Heritage Program at:

Division of Parks and Forestry  
New Jersey Department of Environmental Protection  
P.O. Box 404  
Trenton, New Jersey 08625-0404  
Phone: (609) 984-1339  
Fax: (609) 984-1427

2. A description of the habitat requirements for each species identified in the Natural Heritage Program letter, including citations to appropriate literature and studies;

3. Three copies of a description of the parcel, including, but not limited to:

i. Vegetation, elevation, slope and aspect, and a description of any important topographic features such as cliffs, bluffs and sinkholes on or within 0.25 miles of the boundary of the site;

ii. The geology of the site as described in the most current USGS bedrock geologic maps, a description of bedrock and surficial deposits, and the location and description of any important geologic features such as talus and caves within 0.25 miles from the boundary of the site;

iii. The soil types on the site as most currently classified and mapped by the U.S. Department of Agriculture (U.S.D.A.) Natural Resources Conservation Service and the location and description of any important soil features present within 0.25 miles of the boundary of the site;



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iv. The location and a description of all hydrologic features on the site such as rivers, streams, lakes, ponds, springs, seeps, vernal pools and waterfalls, as well as those located within 0.25 miles from the boundary of the site;

v. The location and a description of all evidence of natural or man-made disturbance both on the site and within 0.25 miles from the boundary of the site;

vi. The location and a description of all upland, wetland, and aquatic ecological vegetative communities on the site, based on quantitative data collected during the optimal time(s) of the year using appropriate, scientifically accepted terms of description and analysis techniques. Guidance with regard to appropriate classification systems and techniques may be found in Guidelines for Describing Associations and Alliances of the U.S. National Vegetation Classification by Jennings et al. (2003), The Ecological Society of America -- Vegetation Classification Panel, available at: [www.esa.org/vegweb/NVC\\_guidelines\\_v3.pdf](http://www.esa.org/vegweb/NVC_guidelines_v3.pdf); Ecological Systems of the United States: A Working Classification of U.S. Terrestrial System by Comer et al. (2003), NatureServe, available at: [www.natureserve.org/library/usEcologicalsystems.pdf](http://www.natureserve.org/library/usEcologicalsystems.pdf); and Classification of Vegetation Communities of New Jersey: Second Iteration by Breden et al. (2001), Association for Biodiversity Information and New Jersey Natural Heritage Program, available at: <http://njedl.rutgers.edu/njdlib>, Record ID#1980. For each ecological community identified on the site, the evaluation shall include physiognomy, species composition with a list of the most abundant plant species by strata (canopy tree, subcanopy tree, shrub, vine, herbaceous, bryophyte), a description of successional stage, slope degrees and aspect, geologic substrate (as indicated in the most recent USGS bedrock geologic maps), soil texture and pH (as indicated in the most recent Soil Survey and verified by field sampling), depth to water table (as indicated in the most recent Soil Surveys), and hydrologic influences;

vii. A map showing the location and composition of ecological communities on the site and the location of important topographical, geological and hydrological features identified in (b)3iv above;

viii. The results of threatened or endangered animal species surveys for the purpose of supplementing scientific data regarding the suitability of a particular habitat for a particular species that were conducted in consultation with the Department and in accordance with all Federal and State laws and regulations, including for each species surveyed: the survey method, the surveyor's name(s), dates and times surveys were performed, number of samples, and number of replications;

ix. The names, addresses and professional qualifications of all persons who performed habitat evaluations, and/or species surveys relied upon to support the application for the Habitat Suitability Determination;

x. A copy of any other relevant animal survey or report to which the applicant or their agent has access; and

xi. Any other information relevant to assessing the suitability of habitat on the site for any threatened or endangered animal species.

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(c) In making a Habitat Suitability Determination, the Department shall consider as suitable habitat any site that, based on the best available scientific information, provides all of the components necessary to sustain any threatened or endangered animal species, including, but not limited to, nesting or breeding areas, foraging or feeding areas, resting or roosting areas, hibernacula or denning areas, migratory and/or movement pathways, areas necessary for lifecycle completion, or any site that is a part of a larger habitat area that provides all of the components necessary to sustain the threatened or endangered animal species in question. The determination shall be based upon evaluation of the following:

- i. The information provided by the applicant under (b) above;
- ii. Information available to the Department identifying which, if any, threatened or endangered animal species may have suitable habitat on the site. Such information includes, but is not limited to, the Landscape Maps, Natural Heritage Database, records of documented species occurrences and public comment;
- iii. Scientific information related to the life history characteristics and habitat needs of the species;
- iv. The results of any animal species surveys done in consultation with the Department and in accordance with the survey procedures at N.J.A.C. 7:7E-3C.4(a) and (b); and
- v. The extent to which the site contains the characteristics of suitable habitat for each threatened and endangered animal species, including onsite and adjacent vegetation structure and composition, soil characteristics, wetland characteristics and hydrologic conditions, surrounding land use and disturbance levels, and any other factor that may affect the habitat suitability for any threatened or endangered animal species that are identified as part of on-site inspection(s).

(d) Based on the information provided in (b) above and the Department's analysis at (c) above, the Department will:

1. Issue a letter finding that the parcel is not suitable habitat;
2. Issue a letter finding that the parcel is suitable habitat; or
3. Notify the applicant that seasonal conditions do not permit an accurate assessment of habitat, explain the seasonal conditions involved, and give the applicant the option of either accepting a finding that the site constitutes suitable habitat for that species, or waiting until the Department can determine the suitability of habitat.

## SUBCHAPTER 6. WATER QUALITY LIMITED SEGMENTS LISTS AND TOTAL MAXIMUM DAILY LOADS

### **7:15-6.1 Scope and purpose**

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This subchapter sets forth the processes for identifying and listing water quality limited segments, setting the priorities and schedule for development of total maximum daily loads (TMDLs) to address impairments in water quality limited segments, and for developing TMDLs and plans to implement TMDLs.

#### **7:15-6.2 Listing of water quality limited segments**

(a) The Department shall develop lists of water quality limited segments in accordance with the Federal requirements at 40 CFR 130.7(b), incorporated herein by reference; Federal information or guidance concerning the Clean Water Act Section 303(d), 305(b) and 314 Integrated Reporting and Listing Decisions; the USEPA guidance document titled Information Concerning 2008 Clean Water Act Sections 303(d), 305(b) and 314 Integrated Reporting and Listing Decisions – Diane Regas – October 12, 2006 (available at <http://www.epa.gov/owow/tmdl/policy.html>) incorporated herein by reference, as amended and supplemented; and pursuant to the process set forth in (b) through (g) below.

(b) The Department has developed and shall, from time to time, revise a document known as the Integrated Water Quality Monitoring and Assessment Methods document in accordance with 40 CFR 130.7(b)6 that sets forth assessment methods used to develop the List of Water Quality Limited Segments required by Section 303(d) of the Federal Clean Water Act (33 U.S.C. §1313(d)).

(c) The Department shall publish a notice in the New Jersey Register and on its website <http://www.state.nj.us/dep/wms/bwqsa/generalinfo.html> to solicit water quality data to be considered in the development of the List of Water Quality Limited Segments.

(d) The Integrated Water Quality Monitoring and Assessment Methods document describes:

1. The quality assurance requirements for data used to evaluate water quality and support of designated uses;

2. The methods used to evaluate water quality data, assess water quality standards attainment and identifying water quality limited segments; and

3. The basis for assigning the priority for development of TMDLs for the waterbody and pollutant combinations identified on the List of Water Quality Limited Segments, also known as the 303(d) list.

(e) The Department shall publish a notice in the New Jersey Register and on its website to provide the public with the opportunity to provide comment on revisions to the Integrated Water Quality Monitoring and Assessment Methods Document prior to applying the revised assessment methods in developing the next List of Water Quality Limited Segments in (f) below.

(f) The Department shall revise, on a biennial basis, the List of Water Quality Limited Segments in accordance with the Integrated Water Quality Monitoring and Assessment Methods

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in effect at that time. The list shall indicate those water quality limited segments that are scheduled for the development of TMDLs while the list is in effect.

(g) The Department shall propose the List of Water Quality Limited Segments as an amendment to the Statewide Water Quality Management Plan, provide an opportunity for public comment and adopt the amendment in accordance with N.J.A.C. 7:15-6.4.

### **7:15-6.3 Total maximum daily loads**

(a) Pursuant to the process set forth in (b) and (c) below, the Department shall develop total maximum daily loads (TMDLs) for water quality limited segments in accordance with:

1. The Federal requirements at 40 CFR 130.7(c) and (e), incorporated herein by reference, including all future amendments and supplements; and

2. The following USEPA guidance documents, incorporated herein by reference, including all future amendments and supplements, available at [www.nj.gov/dep/watershedmgt/tmdl.htm](http://www.nj.gov/dep/watershedmgt/tmdl.htm):

i. USEPA. 2002. EPA Review of 2002 Section 303(d) Lists and Guidelines for Reviewing TMDLs under Existing Regulations issues in 1992. Office of Wetlands, Oceans and Watersheds Memorandum from: C.H. Sutfin, dated October 2002;

ii. USEPA. 2002. Establishing Total Maximum Daily Load (TMDL) Wasteload Allocations (WLAs) for Storm Water Sources and NPDES Permit Requirements Based on Those WLAs. Office of Wetlands, Oceans and Watersheds Memorandum from: R.H. Wayland, III, dated November 22, 2002; and

iii. USEPA. 2006. Establishing TMDL "Daily" Loads in Light of the Decision by the U.S. Court of Appeals for the D.C. Circuit in *Friends of the Earth, Inc. v. EPA, et al.*, No.05-5015, (April 25, 2006) and Implications for NPDES Permits. Office of Water Memorandum from: B. H. Grumbles, dated November 15, 2006.

(b) A TMDL document shall include the following components:

1. An identification of segment(s), pollutant(s) of concern, pollutant sources and the priority for the subject TMDL as identified in the 303(d) list;

2. A description of applicable water quality standards and the water quality target(s) selected for the pollutant(s) of concern;

3. Identification of critical conditions considering seasonal variation;

4. The loading capacity of the segment with respect to the pollutant(s) of concern under the identified critical conditions and identification of the means used to relate actual and predicted water quality to pollutant loads;

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5. Allocation of the loading capacity among the following:
    - i. Load allocations for nonpoint sources of pollutant load;
    - ii. Wasteload allocations for point sources of pollutant load;
    - iii. A margin of safety required to included the overall load reductions required to account for uncertainties in the data used in the analysis, the model or other tool use to link water quality and pollutant loads, or the effectiveness of controls available to reduce pollutant loads; and
    - iv. An optional reserve capacity to allow for future growth;
  6. An implementation plan that shall include the strategies designed to achieve attainment of the Surface Water Quality Standards or other more stringent target, a proposed schedule for implementation, and the methods to measure the effectiveness of the strategies; and
  7. A summary of the opportunities provided and outcomes of public participation in the development of the TMDL.
- (c) In addition to the public participation opportunities identified at N.J.A.C. 7:15-6.4, the Department may provide opportunities for public participation in the TMDL development process, based upon anticipated interest, which may include the following:
1. The Department may hold one or more informational meetings, at any point during the development of a TMDL and solicit comments on the components of the TMDL; and
  2. The Department may inform or consult with the public through web postings or electronic communication with groups or individuals that have an interest in the affected watershed, regarding components of the TMDL.

#### **7:15-6.4 Amendment procedures**

- (a) The Department shall propose an amendment to the Statewide Water Quality Management Plan for a revised List of Water Quality Limited Segments or to the applicable areawide Water Quality Management plan(s) for a TMDL document(s) as follows:
1. The Department shall publish a notice of proposed amendment to the Statewide or applicable areawide WQM Plan in the New Jersey Register, on the Department's website at [www.state.nj.us/dep](http://www.state.nj.us/dep) and in a newspaper(s) of general circulation in the affected area(s). The public notice shall specify the means to access the subject document electronically or by hard copy and the procedure for submitting comments. The Department may determine to hold a nonadversarial public hearing in anticipation of sufficient public interest. If so, the location, time and place of the hearing will be identified in the notice. A minimum comment period of 30 days

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will be provided. If a public hearing is to be held, at least 30 days notice of the hearing will be provided and the comment period will remain open until 15 days after the public hearing;

2. The Department may alternatively determine to hold a nonadversarial public hearing in response to expression of sufficient public interest, as defined under N.J.A.C. 7:1D-5.2, received within 30 days of the publication of the notice in (a)1 above. If the Department determines to hold a nonadversarial public hearing in response to a request, notice of the public hearing shall be provided on the Department's website at [www.state.nj.us/dep](http://www.state.nj.us/dep) and in a newspaper(s) of general circulation in the affected area. The Department shall additionally provide notice of the public hearing to those requesting the hearing. The Department shall provide a 30-day notice period prior to the public hearing and a 15-day public comment period after the hearing;

3. At the conclusion of the public comment period, the Department will make any appropriate revisions to the document(s) and for TMDLs, prepare a response document to the comments. The Department shall either:

- i. Establish the List of Water Quality Limited Segments or the TMDL as proposed;
- ii. Establish all or portions of the List of Water Quality Limited Segments or the TMDL with changes which do not effectively destroy the value of the public notice regarding the proposed List of Water Quality Limited Segments or TMDL, as applicable; or
- iii. Re-propose in accordance with (a)1 above, all or portions of the List of Water Quality Limited Segments or the TMDL with substantive changes; and

4. The Department shall submit the established List of Water Quality Limited Segments or the established TMDL, including the response to comments received, to the USEPA for approval.

(b) Upon receipt of a response from USEPA, the Department shall:

1. Amend the document in accordance with USEPA comments and repropose the amendment if USEPA requests substantive changes that effectively destroy the value of the original public notice; or

2. Adopt the document(s) as an amendment to the Statewide Water Quality Management Plan or areawide Water Quality Management plan(s), as applicable, by placing a notice in the New Jersey Register and the Department's website at [www.state.nj.us/dep/wms/bwqsa](http://www.state.nj.us/dep/wms/bwqsa) for the List of Water Quality Limited Segments and [www.nj.gov/dep/watershedmgt/tmdl.htm](http://www.nj.gov/dep/watershedmgt/tmdl.htm) for TMDLs. This step constitutes final agency action.

SUBCHAPTER 7. (RESERVED)

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## SUBCHAPTER 8. WITHDRAWAL AND REDESIGNATION OF WASTEWATER SERVICE AREAS

### **7:15-8.1 Withdrawal of wastewater service area designations**

(a) Except as provided in (b) and (d) below, wastewater service area designations shall be withdrawn in areas which fail to adopt and maintain a wastewater management plan in accordance with the requirements of N.J.A.C. 7:15-5.2(b), 5.13 and 5.23. Withdrawal of wastewater service area designations under this subsection shall not impact areas where sewers are physically installed and wastewater generating structures are lawfully connected to the collection and treatment system at the time of withdrawal.

(b) Wastewater service area designations for the following are not withdrawn under (a) above:

1. Projects involving the lateral connection of an infill area to an existing public sewer line, where sanitary or combined sewer infrastructure lawfully exists in the right-of-way adjoining the lot or lots such that a connection can be made without crossing any property lines other than that of the lot to be served and where such connection does not require the extension of a collection system. The sewer line, lots, and improvements on the lots must exist on the date that wastewater service area was withdrawn;

2. Except as provided in (d) below, projects that have received, prior to the effective date of the wastewater service area withdrawal, both a local preliminary or final site plan approval or subdivision approval where subsequent site plan approval is not required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., (MLUL) or a municipal construction permit; and a Department TWA or NJPDES permit, if one is required, until such time as one of those qualifying approvals expires;

3. Projects that have received a site specific WQM plan amendment or revision adopted prior to the date of wastewater service area withdrawal remain valid for a period of six years from the date of adoption of the amendment or revision; and

4. Projects that require an industrial treatment works that does not handle process wastewater or sanitary sewage.

(c) Areas for which wastewater service area designations are withdrawn under this section are re-designated as ground water general wastewater service area designation for planning flows of 2,000 gallons per day or less. The following wastewater facilities with discharges to ground water are deemed to be consistent with this new designation:

1. Wastewater facilities serving non-residential development that discharge to ground water with a daily maximum planning flow of 2,000 gallons per day or less when calculated in accordance with the expected volume of sanitary sewage criteria at the Standards for Individual Subsurface Sewage Disposal Systems, N.J.A.C. 7:9A-7.4; or

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2. Individual or other subsurface sewage disposal systems serving residential development or subdivisions resulting in a total of fewer than six dwelling units.

i. For the purpose of determining the total number of dwelling units, previous development shall be taken into account. Previous development includes development constructed after the effective date of the wastewater service area withdrawal. Previous development to be taken into account in determining if the development qualifies includes:

(1) The construction of any residential development on contiguous parcels of property, regardless of present ownership, where there is a proposed sharing of infrastructure constructed to serve those parcels including, but not limited to, roads, utility lines, drainage systems, open spaces or septic drainage fields;

(2) The construction of any residential development on contiguous parcels of property which were under common ownership on or after the effective date of the wastewater service area withdrawal, regardless of present ownership, or on parcels created by subdivision or resubdivision of land which occurred after the effective date of the wastewater service area withdrawal;

(3) The construction of any residential development on contiguous parcels of property after the effective date of the wastewater service area withdrawal where there is some shared pecuniary, possessory or other substantial common interest by one or more individuals in the units; and

(4) The addition of one or more dwelling units where such addition, when combined with the dwelling units constructed prior to the effective date of the wastewater service area withdrawal, results in a total of six or more dwelling units;

3. Wastewater facilities with a discharge to ground water including individual and other subsurface sewage disposal systems, associated with a development for which one of the following applies:

i. Projects that have a valid approval issued by the Department, as of the effective date of the wastewater service area withdrawal, for construction of 50 or more realty improvements issued pursuant to the Realty Improvement Sewerage and Facilities Act, N.J.S.A. 58:11-23 et seq.;

ii. Except as provided in (d) below, projects that have received, prior to the effective date of the wastewater service area withdrawal both a local preliminary or final site plan approval or subdivision approval where subsequent site plan approval is not required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. or a municipal construction permit and a permit to construct or alter issued by the administrative authority under N.J.A.C. 7:9A-3.5 until such time as one of those qualifying approvals expires; and

4. Repair or minor expansions of existing wastewater facilities with a discharge to ground water provided the total wastewater generated is 2,000 gallons per day or less.



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(d) For a public school, in lieu of the MLUL approvals in (b)2 or (c)3ii above, a facility that provides evidence of compliance with statutory provisions of the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. in the form of a planning board response dated prior to the effective date of the wastewater service area withdrawal or expiration of the 45-day courtesy comment period that municipal planning boards are allotted to provide recommendations to the school board and Department of Education prior to the effective date of the wastewater service area withdrawal.

## **SUBCHAPTER 9. WATERSHED MANAGEMENT GRANTS**

### **7:15-9.1 Scope and purpose**

(a) The purpose of this subchapter is to set forth the rules governing grants from the Watershed Management Fund to assist watershed management groups in the funding of watershed management activities in accordance with the Watershed Protection and Management Act of 1997, N.J.S.A. 58:29-1 et seq. This subchapter establishes policies and procedures for the award and distribution of Watershed Management Fund monies.

### **7:15-9.2 Project Priority System and Project Priority Award List**

(a) Each year the Department shall develop a Project Priority System that establishes the project category priorities for watershed management grants for that year.

(b) The Department shall publish a notice of availability of watershed management grants in the New Jersey Register, identifying the Project Priority System, application requirements, and deadline for submittal of applications. This notice shall additionally be posted on the Division of Watershed Management's web site ([www.state.nj.us/dep/watershedmgt](http://www.state.nj.us/dep/watershedmgt)).

(c) Unless otherwise specified in the notice of availability, the Department shall, in general, give priority to the following watershed management activities:

1. The initial establishment of watershed associations and/or stakeholder groups to support watershed management planning activities;

2. Watershed management activities identified as a priority action in a adopted Watershed Management Area (WMA) Plan;

3. Watershed management activities identified by a PAC as a priority action prior to adoption of a WMA Plan;

4. Watershed management activities that are designed to address documented water resource problems or issues of particular concern in a subwatershed, watershed or watershed management area, as indicated in the Statewide Water Quality Inventory Report prepared by the Department pursuant to Section 305(b) of the Federal Clean Water Act (33 U.S.C. §1315(b)), or

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a characterization and assessment of water quality and water quantity report prepared by or for the Department, or other Department-approved sources of assessment;

5. Watershed management activities conducted in partnership with other watershed management groups or other entities or interests other than those participating in the applicant's watershed management group;

6. Monitoring and/or modeling activities designed to support the development, implementation and assessment of TMDLs for waterbodies listed on the most recently approved Water Quality Limited Segments (WQLS) List;

7. Watershed management activities to be conducted for an entire watershed management area or areas; and

8. Development of watershed or subwatershed management strategies.

(d) Each year, the Department shall develop a Project Priority Award List for projects determined to be eligible for funding based on the Project Priority System. The list shall be submitted to the Legislature for consideration and approval in accordance with N.J.A.C. 7:15-9.5.

### **7:15-9.3 Pre-application procedures**

(a) The Department encourages potential grant applicants to consult with the Department and the applicable PAC(s) prior to application submission in order to facilitate preparation and evaluation of the grant application. Inquiries to the Department may relate to procedural or substantive matters and may range from informal telephone advice to pre-arranged meetings.

(b) Watershed management grants shall only be issued to watershed management groups recognized in accordance with the following:

1. A watershed management group is a group recognized by the Department as the entity representing various interests within one or more watersheds or subwatersheds located in a watershed management area and whose purpose is to improve the condition or prevent further degradation of a watershed or watersheds.

2. The activities of a watershed management group may include:

- i. Holding public meetings to discuss and exchange information on watershed issues;
- ii. Establishing and operating a stakeholder's advisory group or groups or watershed associations dedicated to preserving and protecting a watershed;
- iii. Engaging in water quality and quantity monitoring, water quality modeling or assessment of the condition of a watershed;

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iv. Developing policy goals to reduce the amount of pollutants discharged into a watershed;

v. Developing projects designed to enhance or restore a watershed; or

vi. Developing, in consultation with the Department and the PAC established for the WMA, a watershed management strategy, or the reassessment of a watershed to determine whether the policies, goals or the objectives of a WMA plan or a watershed management strategy have been attained. The watershed management strategy addresses one or more watersheds or subwatersheds and is developed by the watershed management group, whereas the WMA plan addresses the watershed management area, which consists of more than one watershed, and is developed by the Department.

3. At a minimum, the following entities and individuals shall be invited to participate in a watershed management group:

i. The mayor or equivalent government official, or such official's designee, for each municipal government located partially or entirely within the watershed or watersheds represented by the watershed management group;

ii. The county board of freeholders, or the freeholders' designee, for each county located partially or entirely within the watershed or watersheds represented by the watershed management group;

iii. A representative of water purveyors;

iv. A representative of wastewater utilities or authorities;

v. A representative of the business community;

vi. A representative of the development community;

vii. A representative of the agricultural community, if appropriate;

viii. A representative of the applicable Soil Conservation District(s);

ix. A representative of the academic community;

x. A representative of the environmental community;

xi. A representative of the general public; and

xii. An official of any regional planning agency (including regional planning boards established pursuant to N.J.S.A. 40:55D-77 et seq.) that has been created for all or part of the watershed or watersheds to be represented by the watershed management group, as applicable.

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4. A request for recognition as a watershed management group shall be submitted to the Department with a copy to the applicable PAC(s), and include the following information:

- i. A copy of the mailing list used to establish the watershed management group, including the entities identified in (b)3 above;
- ii. A copy of the letter of invitation to participate in the watershed management group;
- iii. A copy of the responses from those officials or representatives agreeing to participate;
- iv. A copy of the responses from those officials or representatives declining to participate; and
- v. In cases where no response to the letter of invitation was received within 60 days, the group shall send a follow-up request by certified mail, return receipt requested, and submit proof of such follow-up.

5. The Department shall respond in writing within 45 days of the receipt of a complete request for recognition as a watershed management group.

6. To qualify for funding under this chapter, a watershed management group shall make an application to the Department for recognition, identify a government entity, 501(c)3 corporation or other corporate entity that will serve as the fiscal agent for the watershed management group and provide a statement of agreement from that entity to serve as the fiscal agent for the watershed management group. The fiscal agent shall be responsible for all financial interactions with the Department.

7. All meetings of a watershed management group shall be open to the public with prior notification in a newspaper of general circulation that covers area of the group.

(c) Potential grant applicants are encouraged to obtain recognition as a watershed management group at least 60 days prior to the submittal of grant applications.

#### **7:15-9.4 Application procedures for grants for watershed management activities**

(a) Any recognized watershed management group may submit an application to the Department for a watershed management grant.

(b) The watershed management group should submit an application pertaining to watershed management activities for which the watershed management group has a high probability of success. Factors for consideration include the extent to which available resources (personnel and fiscal) are sufficient for complete and successful implementation of the activities and achievement of the stated objectives.

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(c) The applicant shall submit the information identified in the notice of availability published annually by the Department, in accordance with N.J.A.C. 7:15-9.2. In order to be considered for a grant, the information shall be submitted by the application deadline specified in the notice of availability.

(d) Grant applications shall provide, at a minimum, the following information, as specified in the notice of availability:

1. Proof that the applicant has been recognized as a watershed management group in accordance with N.J.A.C. 7:15-9.3(b);
2. A description of the watershed or watersheds in which the activity is to be conducted, including a map as appropriate;
3. A scope of work that includes an executive summary, a description of the proposed watershed management activities, environmental objectives and measures (as appropriate), a budget, and a schedule for completion;
4. A description of how the proposed activities correspond to and will achieve the goals and objectives of this chapter and conformance with the priorities defined in the annual Project Priority System or N.J.A.C. 7:15-9.2;
5. A description of any proposed environmental monitoring, including evaluation criteria, environmental indicators, and an approved quality assurance/quality control plan, as applicable;
6. Identification of the source and availability of any additional supplementary funds, in the form of cash, in-kind services or both, to be used with this grant to implement the proposed watershed management activity;
7. Identification of all personnel and consultant(s) who will be performing the activity and a description of their experience and expertise in the proposed watershed management activity; and
8. Evidence that the PAC(s) of the watershed management areas within which the proposal is located were provided an opportunity to comment on the proposal, including a copy of the PAC's response; and
9. Any additional information as specified in the notice of availability.

(e) If a grant is awarded, a grant agreement shall be executed between the Department and the watershed management group. The watershed management group is responsible for all performance reports, expenditure reports, deliverables and all other requirements specified in the executed grant agreement.

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(f) A watershed management group may contract for services for all or part of the grant to another person or entity to perform a watershed management activity(ies) in accordance with Department procedures and forms provided in the grant agreement, subject to the following conditions:

1. The watershed management group shall not enter into any contract with any person debarred, suspended or disqualified from Department contracting pursuant N.J.A.C. 7:1-5 for any services within the scope of work;

2. If the watershed management group distributes a grant to a person who has a NJPDES permit to discharge pollutants into the waters of the State pursuant to N.J.A.C. 7:14A, the distribution shall be conditioned upon the NJPDES permittee providing a match of one dollar for every dollar distributed to the NJPDES permittee. The match may be made either as a monetary payment or as an in-kind contribution; and

3. The use any of the grant monies for the purpose of complying with a NJPDES permit is prohibited.

(g) All grant applications, grant agreements and any supporting documentation are public records.

(h) Unless otherwise specified in the notice of availability, applications for watershed management grants shall be submitted to:

New Jersey Department of Environmental Protection  
Watershed Management Grant Program  
Division of Watershed Management  
P.O. Box 418  
Trenton, New Jersey 08625-0418

#### **7:15-9.5 Project priority award process**

(a) The Department shall submit the Project Priority Award List of recommended watershed management grant projects developed under N.J.A.C. 7:15-9.2 to the Legislature for consideration and approval.

(b) The Department shall publish a notice in the DEP Bulletin and on the Division of Watershed Management web site ([www.state.nj.us/dep/watershedmgt](http://www.state.nj.us/dep/watershedmgt)) of those projects recommended to the Legislature for approval in the Project Priority Award List.

(c) For all watershed management grant applications included on the Project Priority Award List and approved by the Legislature, the Department shall transmit to the applicant for execution a grant agreement specifying the terms and conditions of the grant, including the scope of work, the approved budget, and the schedule for completion. The applicant shall execute the grant agreement in the manner specified by the Department and shall return the grant agreement to the Department within 60 days, unless the applicant has requested and received from the

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Department an extension of the 60-day period. If the grant agreement is not returned by the deadline, the Department reserves the right to award the grant monies to the next highest ranked eligible project.

(d) Funds under a watershed management grant shall be released only after a grant agreement has been executed by both the applicant and the Department.

(e) The budget in the grant agreement shall specify the items eligible for funding under this subchapter, which may include, for example:

1. Costs of materials, supplies and reproduction for reports, policy recommendations, draft ordinances, publications, maps, diagrams and other similar documents;

2. Project implementation costs, including costs for travel, materials, tools, and disposal costs for debris;

3. Equipment purchases such as computers and global position satellite units may be eligible for grant funding. However, upon completion of the grant commitments, these purchases are subject to the Department's procedures for the disposition of equipment purchased with State funds;

4. Contractual costs for services necessary to implement the grant;

5. Costs of acquisition of real property, including administrative costs, where such property must be acquired as a site for the construction or implementation of nonstructural stormwater management, nonpoint source pollution controls or best management practices, including but not limited to, real property to be used for buffers or to protect aquifer recharge areas; and

6. The acquisition of land, as a means of avoiding new pollutant inputs or water body degradation, may be made eligible, if included in the notice of availability, but shall have a lower priority for watershed management grants than implementation projects that mitigate current stresses or prevent future stresses to water and water-related resources in ways other than land acquisition.

(f) The following items are not eligible for funding under this subchapter:

1. Building construction or other kinds of real property improvements;

2. Bonus payments, charges for contingency reserves, deficits or overdrafts, costs of discounts not taken and interest expenses;

3. Costs of services, materials or equipment obtained under any other State or Federal grant or loan program;

4. Costs of fund raising and lobbying;

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5. Work performed at the direction of a county or municipal government which has not been awarded in compliance with the Local Public Contracts Law, N.J.S.A. 40A:1-1 et seq.;

6. Costs associated with the compliance with permit conditions or enforcement orders; and

7. Any additional item(s) specified by the Department in the notice of availability and the grant agreement as not eligible for funding.

#### **7:15-9.6 Administration and performance of grants**

(a) The Department shall release funds to the grant recipient in accordance with the terms of the grant agreement. Upon execution of the grant agreement, up to 60 percent of the grant award may be released. If the grant agreement is for a multiple-year project, up to 60 percent of the funds budgeted for each year may be released at the beginning of each contract year.

(b) After the initial release of funds, any subsequent release of State funds is conditioned upon the submittal of properly documented expenditure reports and final deliverables.

(c) As the grant recipient, the watershed management group has sole responsibility for the administration and success of the grant project, including any work performed on behalf of the grant recipient for accomplishing grant objectives. Watershed management groups are encouraged to seek the advice and opinion of the Department on problems that may arise; however, such advice shall not shift the responsibility for final decisions from the recipient to the Department. The watershed management group shall be solely responsible for the use of the grant funds awarded pursuant to this subchapter in conformance with applicable State requirements to achieve grant and program objectives and to ensure the most efficient use of public funds.

(d) The grant recipient shall supply performance reports to the Department within the time period specified in the grant agreement.

(e) The grant recipient shall supply expenditure reports to the Department within the time period specified in the grant agreement.

#### **7:15-9.7 Project changes: amendment of grant agreement**

(a) The grant recipient shall promptly notify the Department in writing (certified mail, return receipt requested) of any event or proposed change which may require an amendment of the grant agreement, including the following:

1. A significant change in budgeting cost or in scope of work;
2. A significant change in the scheduled project completion date;



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3. A significant changed conditions at the project site;
  4. A change in the schedule in the time for performance of the project or any major phase thereof;
  5. A change in personnel responsible for grant and subsequent project implementation; and
  6. A change in approved technical plans or specifications for the project.
- (b) If the Department determines that a formal amendment is necessary, it shall notify the grant recipient and a formal amendment to the grant agreement shall be prepared and executed.
- (c) If the Department determines that the project change does not require an amendment of the grant agreement under (a) and (b) above, the Department shall notify the grant recipient in writing.

#### **7:15-9.8 Noncompliance**

- (a) If the grant recipient does not comply with the terms and conditions of the grant agreement, the Department may:
1. Issue written notice identifying the deficiency (for example, failure to submit timely performance reports) and directing the grant recipient to correct the deficiency;
  2. Meet with the grant recipient to review the terms and conditions of the grant agreement and amend the grant as necessary;
  3. Demand reimbursement of any advance payment(s) and/or withhold scheduled payments under the grant agreement;
  4. Rescind the grant agreement by issuance of a notice of termination of grant award; or
  5. Award the grant to another watershed management group to perform the previously approved scope of work.